

United States /  
Circuit Court of Appeals  
For the Ninth Circuit.

Vol  
2238

SAN FRANCISCO LAUNDRY ASSOCIATION,  
a corporation,  
Appellant,  
vs.

AMERICAN TRUST COMPANY,  
Appellee.

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Transcript of Record

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Upon Appeal from the District Court of the United  
States for the Northern District of California,  
Southern Division.

FILED

JAN - 7 1942

PAUL P. O'BRIEN,  
CLERK



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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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NAMES AND ADDRESSES OF ATTORNEYS  
CHARLES M. BUFFORD,

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Attorney for Appellant.

BROBECK, PHLEGER & HARRISON,

111 Sutter Street, San Francisco,  
Attorneys for Appellee.

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In the Southern Division of the United States  
District Court for the Northern District of  
California.

No. 33553-L  
Bankruptcy, Chapter X

In the Matter of

SAN FRANCISCO LAUNDRY ASSOCIATION,  
a corporation,

Debtor.

CERTIFICATE AND REPORT OF SPECIAL  
MASTER ON ISSUES RAISED BY AN-  
SWER OF AMERICAN TRUST COMPANY  
TO PETITION FOR CORPORATE RE-  
ORGANIZATION AND OBJECTIONS OF  
AMERICAN TRUST COMPANY TO PRO-  
POSED PLAN OF REORGANIZATION

To Honorable Harold Louderback, United States  
District Judge for the Northern District of  
California:

I, Burton J. Wyman, one of the referees in bankruptcy of this court, acting herein as special master, hereby respectfully certify and report:

On February 6, 1941, the above named debtor filed its verified petition for corporate reorganization. In said

### PETITION

it is alleged:

“The petition of San Francisco Laundry Association, the above-named debtor, respectfully states: [106\*]

#### “I.

“That debtor is a corporation, duly organized and existing under the laws of the State of California, and has had its principal place of business at the City and County of San Francisco, California, within the above judicial district for more than six months immediately preceding the filing of this petition, to-wit: the debtor has maintained such principal place of business since December 22, 1875. The debtor was incorporated on December 22, 1875.

#### “II.

“The debtor is a corporation, as defined in the Bankruptcy Act, which could be adjudged a bankrupt under said Act, and is not a municipal, insurance or banking corporation, or a building and loan association, and is not a rail-

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\*Page numbering appearing at foot of page of original certified Transcript of Record.

road corporation authorized to file a petition under Section 77 of said Act.

“III.

“The debtor is unable to pay its debts as they mature, as will more particularly appear from the schedules hereinafter referred to.

“IV.

“The debtor desires that a plan of reorganization be effected under the provisions of Chapter X of the Bankruptcy Act, and declare that this petition is filed in good faith.

“V.

“The nature of debtor’s business is owning, developing and leasing real property, and leasing and selling laundry equipment. The debtor also formerly operated a general laundry business, which was liquidated prior to the filing of this petition, in the manner set out under paragraph IX(a) hereof.

“VI.

“The schedule hereto annexed, marked Schedule ‘A’, and verified by the oath of the President of your petitioner, contains a full and true statement of all the debts and liabilities [107] of your petitioner. There are issued and outstanding 1000 fully paid shares of the common capital stock of the debtor of the par value of \$100.00 per share.

## “VII.

“The schedule hereto annexed, marked Schedule ‘B’, and verified by the oath of the President of your petitioner, contains an accurate inventory of all the assets of your petitioner.

## “VIII.

“The schedule hereto annexed, marked Schedule ‘C’, and verified by the oath of the President of your petitioner, contains a statement of the affairs of your petitioner, in form prescribed by the General Orders in Bankruptcy for Debtors Engaged in Business.

## “IX.

“The nature of all pending proceedings affecting the property of the debtor so far as is known, and the courts in which they are pending, are as follows:

“(a) On or about May 29, 1936, the debtor assigned to A. L. May, as trustee, all its personal property of every description in trust for the benefit of such of petitioner’s unsecured creditors as desired to become parties to the agreement with said trustee, and most of said unsecured creditors became parties thereto. The debtor has fully complied with all its undertaking under said assignment, and the liquidation of the debtor’s general laundry plant and business was undertaken at the instance of said trustee. Said trustee has completed the admin-

istration of his said trust, and presented to the debtor his first and final report of his trusteeship, but the debtor has made claim against said trustee of errors in said accounting, which claim is pending and unadjusted, and is, therefore, set forth in the schedules annexed hereto at an unknown valuation. No court proceedings have been commenced, or are pending, [108] in connection with such claim.

“(b) Under date of November 14, 1929, the debtor made and executed to American Securities Company, a corporation, as trustee for the benefit of American Trust Company, a corporation, a Deed of Trust, which was recorded on January 7, 1930, in the office of the County Recorder of the City and County of San Francisco, State of California, in Liber 1967 of Official Records, at page 469, to secure the payment to said American Trust Company of the principal sum of \$31,000.00, and that there is now due to said American Trust Company, under said Deed of Trust, the sum of \$33,810.52. Said Deed of Trust covered the real property of the debtor, located on the northerly line of Turk Street, and is more particularly described in Schedule ‘B1’ annexed hereto.

“Said American Trust Company and said American Securities Company have noticed the sale of said real property, pursuant to the terms of said Deed of Trust, for sale at public auction on February 7, 1941, at the hour of

10 A. M. of said day, and unless restrained by this Court, said trustee will sell said real property at said time and place, and said real property will be sold at such sale for a sum not exceeding the above-mentioned balance due under said Deed of Trust, to the irreparable damage and injury of the debtor, its creditors and stockholders. No Court proceeding has been commenced, or is pending, in connection with such sale under said Deed of Trust.

“(c) No plan of reorganization, adjustment or liquidation affecting petitioner’s property is now pending, except as hereinabove set forth.

## “X.

“In order for the debtor to obtain relief, it is necessary that the rights of secured creditors of the debtor be modified, in that the principal asset of said corporation is the above mentioned real property located on the northerly line of Turk Street, in said City and County of San Francisco, and [109] which said real property is subject to the above mentioned Deed of Trust to the American Trust Company, and at present a fair market value of said real property is not less than \$45,000.00, and the debtor’s equity in said property at the present market value is in excess of \$11,000.00, and said real property is the principal asset of the debtor. Unless restrained by this Court, said real property will be sold under said Deed of Trust, as

above recited, and unless the rights of said American Trust Company, as a secured creditor and the holder of said Deed of Trust, be deferred and modified, the debtor will lose entirely its equity in said real property, and become wholly bankrupt and compelled to cease its business operations. The debtor's equity in said real property is the only asset out of which it can realize sufficient cash to pay its debts, and if a plan of reorganization under Chapter X of said Act be adopted and the rights of said secured creditor are modified, the debtor will ultimately be enabled to pay its debts in full, and continue its business operations, and your petitioner cannot obtain adequate relief under Chapter XI of the Bankruptcy Act.

#### “XI.

“It is the desire of your petitioner that a plan of reorganization be effected under the provisions of Chapter X of the Bankruptcy Act.

#### “XII.

“The schedule hereto annexed, marked Schedule ‘D’, and verified by the oath of the President of your petitioner, contains a copy of the resolution of the Board of Directors of your petitioner, authorizing the filing of a petition for relief under Chapter X of the Bankruptcy Act.

“Wherefore, your petitioner prays:

“1. That an order be entered approving the debtor’s petition as properly filed. [110]

“2. That an order be entered continuing your petitioner in possession and giving it directions for the conduct of your petitioner’s business during the pendency of these proceedings.

“3. That said American Securities Company and said American Trust Company be forthwith restrained from further proceeding with the sale of the real property under the above mentioned Deed of Trust, until further order of the Court.

“4. That your petitioner may have such other and further relief as the Court may deem necessary or proper.

“SAN FRANCISCO LAUNDRY  
ASSOCIATION,

“By CHARLES M. BUFFORD  
President

(corporate seal)

GAYLORD & GAYLORD  
Attorneys for Petitioner.”

(Verification omitted for brevity.)

(See original of said petition on file in the office of the Clerk of this Court.)

In the schedules of said debtor, accompanying said petition, the following debts are listed:

On Schedule A-1, Statement of all creditors to whom priority is secured by the act, is listed taxes

due and owing to the county, district, or municipality of San Francisco, State of California (not delinquent) \$120.00;

Under "Creditors Holding Securities", Schedule A-2, are listed:

American Trust Company, 464 California Street, San Francisco, California, secured by the Deed of Trust dated November 14, 1929 to American Securities Company, as trustee, recorded January 7, 1930, in the office of the County Recorder of the City and County of San Francisco, California, in Liber 1967 of Official Records, Page 469, to secure the payment to said American Trust Company of principal sum of \$31,000.00 and interest rep-

[111]

resented by the promissory note of the debtor of even date with said Deed of Trust. Deed of Trust covers first parcel of real property described in Schedule B-1 attached hereto. Claim is liquidated and current value of security is \$45,000.00. Amount of claim due...\$33,810.52

Florence B. Brownfield, 1278 - 5th Ave., San Francisco, California, representing loan advanced and principal sum of \$3,200.00, secured by Deed of Trust, executed September, 1937, and covering the second described parcel of real property mentioned in Schedule B-2 ..... 3,517.17

Claim is liquidated, and current value of security is \$2500.00.

Both of the above obligations represent cash loans made to debtor.

Total ..... \$37,327.69''

Schedule A-3, "Creditors Whose Claims are Unsecured", shows a listing as follows:

"Lockwood Trust, 1450 Turk Street, San Francisco, California .....	\$ 25.16
Claim is liquidated and represents moneys deposited with the debtor for convenience of creditor."	

There is listed on Schedule B-1, Statement of all Property of Bankrupt, Real Estate":

"All that certain real property situated, lying and being in the City and County of San Francisco, State of California, and more particularly described as follows, to-wit: Commencing at a point on the northerly line of Turk Street, distant thereon 65 feet easterly from the easterly line of Steiner Street; running thence easterly along the said line of

[112]

Turk Street 216 feet 9 inches to a point distant thereon 130 feet 9 inches westerly from the westerly line of Fillmore Street; thence northerly and parallel with the westerly line of Fillmore Street 137 feet 6 inches; thence at a right angle westerly 6 feet 9 inches; thence at a right angle northerly 137 feet 6 inches to the southerly line of Eddy Street; thence at a right angle westerly along the said line of Eddy Street 187 feet 6 inches to a point distant thereon 87 feet 6 inches easterly from the easterly line of Steiner Street; thence southerly and parallel with the easterly line of Steiner Street 187 feet 6 inches to a point distant 87 feet 6 inches northerly from the northerly line of Turk Street, measured at a right angle thereto; thence westerly and parallel with the northerly line of Turk Street 22 feet 6 inches to the intersection of a line drawn at a right angle to the northerly line of Turk Street from the

point of commencement; and thence southerly along the line so drawn, 87 feet 6 inches to the point of commencement. Being portion of Western Addition Block No. 362. Together with the appurtenances.....\$45,000.00  
(Subject to Deed of Trust to American Trust Company, \$33,810.52.)

All that certain real property situated, lying and being in the City and County of San Francisco, State of California, and more particularly described as follows, to-wit: Commencing at a point on the easterly line of Steiner Street distant thereon 112 feet 6 inches northerly from the northerly line of

[113]

Turk Street, running thence northerly along the easterly line of Steiner Street 25 feet, thence at right angles easterly 87 feet 6 inches, thence at right angles southerly 25 feet, and thence at right angles westerly 87 feet 6 inches to the point of commencement.....\$ 2,500.00  
(Secured by Deed of Trust to Florence B. Brownfield, \$3,517.17.)

Total.....\$47,500.00"

On Schedule B-2, "Personal Property", there are listed:

Cash on hand.....	\$199.49
Office furniture and equipment located at 1450 Turk Street, San Francisco, California .....	289.00
Total.....	\$488.49

It also is disclosed by Schedule B-3, "Choses in Action":

"Debts due petitioner on open account,"  
Sale contract for laundry equipment for Superior Laundry, 8 Grand Avenue, South San Francisco, California.....\$ 830.00

Sale contract for laundry equipment for Asahi Laundry, San Francisco, California	881.00
“Unliquidated claims of every nature, with their estimated value”,	
Unliquidated claim against A. L. May, as trustee, under assignment of personal property for creditors in connection with final accounting, the value of which is unknown to the debtor.	
“Deposits of money in banking institutions and elsewhere”,	
None, except as listed under “Cash”.	

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Total.....\$ 1,711.00

[114]

The “Summary of Debts and Assets” show:

Schedule A (Liabilities) total.....	\$37,472.85
Schedule B (Assets) total.....	\$49,699.49

(See original of said schedule on file in the office of the Clerk of this Court.)

On February 6, 1941, the following

### RESTRAINING ORDER

was signed and filed:

“Upon reading the verified Debtor’s Petition for Corporate Reorganization heretofore filed in the above entitled matter, and good cause appearing therefor,

“It is hereby ordered that American Securities Company, a corporation, and American Trust Company, a corporation, and each of them be and they are hereby restrained and prohibited until further order of the court from conducting or proceeding with any sale

under that certain Deed of Trust executed under date of November 14, 1929, by the above-named debtor to said American Securities Company, as trustee for the benefit of said American Trust Company, which said Deed of Trust was recorded on January 7, 1930, in the office of the County Recorder of the City and County of San Francisco, State of California, in Liber 1967 of Official Records at Page 469, which said Deed of Trust covered certain real property situated on the northerly line of Turk Street in said City and County of San Francisco, and which real property is more particularly described in said Deed of Trust.

Dated: February 6, 1941.

HAROLD LOUDERBACK"

(See original of said restraining order on file in the office of the Clerk of this Court.)

February 21, 1941, an order approving petition as properly filed continuing debtor in possession and prescribing powers and duties was filed herein. The order, omitting for the sake of brevity, the [115] preliminary recitals, reads:

"Ordered, Adjudged and Decreed:

"1. That said petition be and it is hereby approved as properly filed under Chapter X of the Bankruptcy Act.

"2. That, subject to the direction and control of the court and until further order herein, the debtor be and it is hereby authorized to con-

tinue in the possession and control of all its assets, properties, lands and estates of whatever kind and description and wheresoever situated, with the title of a trustee appointed under Section 44 of said Bankruptcy Act; and to have the same powers as those exercised by a receiver in equity and trustees in bankruptcy, to the extent consistent with the provisions in Chapter X of the Acts of Congress relating to bankruptcy.

“3. That the debtor be, and it is, hereby authorized and directed, pending further order of this court herein, to conduct, manage, maintain, operate and keep in proper condition and repair, the assets, properties and business of the debtor wherever situated, and to manage, operate and conduct its business, and to employ and discharge and fix the compensation of all officers, attorneys, managers, superintendents, agents and employees, and to collect and receive the income, rents, revenues, issues and profits of its assets, properties and business, and to collect all outstanding notes, and to the extent necessary to protect and preserve the assets, properties and business of debtor, to make and pay for betterments to the properties of the debtor, all according to law, and subject to such supervision and control by the Judge of this court as may be exercised by further orders entered herein.

“4. That not later than April 14th, 1941, unless the time be extended by order of this court, the debtor, if then in possession, shall file with the clerk of this court a plan of reorganization on which a hearing shall be held before [116] this court in accordance with Section 170 of Chapter X of the Bankruptcy Act, in Room ..... of the United States Post Office and Courthouse Building, San Francisco, California, on May 19th, 1941, at 10 o'clock A.M., of said day, for the consideration of any objections or amendments thereto, and to determine whether said plan shall be approved.

“5. That the debtor shall cause notice to be given to the Secretary of the Treasury, the Securities and Exchange Commission and to the creditors and stockholders of the debtor, of a hearing to be held before this court at Room No. ..... of the United States Post Office and Courthouse Building, San Francisco, California, on April 7th, 1941, at 10 o'clock A.M., of said day, to determine whether or not this court shall continue the debtor in possession or appoint a trustee, and to consider the plan of reorganization to be filed by the debtor and any objections and amendments thereto, by mailing on or before Mar. 7th, 1941, a notice of such hearing to the Secretary of the Treasury, the Securities and Exchange Commission and to each creditor and stockholder of the debtor

appearing as such on the books and records of the debtor, addressed to such creditors and stockholders at the address appearing on such records; and by publishing once a week for two successive weeks in 'The Recorder', a newspaper of general circulation printed and published in the City and County of San Francisco, California; said publication to be commenced not later than Mar. 7th, 1941.

"The notice so mailed and published shall be in substantially the following form under the title of the above-entitled court and cause:

'To the Creditors and Stockholders of the above-named Debtor:

'The petition of San Francisco Laundry Association, a California corporation (herein called the debtor) for reorganization and for relief under Chapter X of the Bankruptcy Act, has been approved as properly filed under said Chapter, and an order was filed in these proceedings on ....., [117] 1941, temporarily continuing the debtor in possession of its properties and authorizing the debtor to operate its business pending further order of the court:

'Notice is hereby given pursuant to the aforesaid order dated Feb. 20th, 1941 of a hearing to be held before the above-entitled court in Room No. ..... of the United States Post Office and Court house Building, San Francisco, California, on Apr. 7th, 1941 at

10 o'clock A. M., of said day, to determine whether or not the court shall continue the debtor in possession or appoint a trustee or trustees, and of a hearing to be held before said court at said place on May 19, 1941, at 10 o'clock A. M., of said last mentioned day, to consider the plan of reorganization to be filed by the debtor or trustee, and any objections or amendments thereto.

‘Dated: ..... , 1941.

‘SAN FRANCISCO LAUNDRY  
ASSOCIATION

‘By..... ,

“6. That all persons, firms, corporations and associations be, and they are, hereby enjoined until further order of this court from commencing or prosecuting any actions or taking any action whatsoever in any way interfering with the possession, control, operation or management by the debtor of its business and properties.

“7. That the officers of the debtor are authorized to make any or all payments and to draw any or all checks in the ordinary course of business, and to open and maintain a bank account or accounts in such bank or banks as may be selected by the Board of Directors, provided that such bank or banks are authorized depositories of funds under the jurisdiction of this court.

“8. That, pending further order of this court, the debtor is authorized to institute and prosecute in any court or before any tribunal of competent jurisdiction all such suits and proceedings as may be necessary for the recovery or protection of its rights and properties, and to make settlement of any thereof, and likewise to defend any actions, claims, proceedings or suits which may hereafter be asserted or brought in any court, or before any officer, department, commission [118] or tribunal, to which the debtor shall be a party, but no payment shall be made by the debtor in respect to any such claims, actions, proceedings or suits, and no action taken by the debtor in defense or settlement of such claims, actions, proceedings or suits shall have the effect of establishing any claim upon, or right in, properties or funds in possession of the debtor that otherwise would not exist.

“9. That the debtor shall close its books of account as of midnight, February 6th, 1941, and open new books of account immediately thereafter, and cause to be kept therein due and proper accounts of the earnings, expenses, receipts and disbursements of the debtor, and shall preserve proper vouchers for all payments made on account thereof, and deposit the moneys coming into the hands of the debtor in any of the banks in which the funds of the debtor are presently deposited and such other

banks hereafter selected by the Board of Directors of the debtor, provided that such banks are authorized depositories for funds under the jurisdiction of this court.

“10. That not later than Mar. 10th, 1941, unless the time be extended by further order of this court, the debtor shall file with the clerk of this court a schedule of its stockholders of each class, showing the number and kind of shares registered in the name of each stockholder and the last known post office address or place of business of each stockholder.

“1. That the debtor be, and it is, hereby authorized in its discretion from time to time and until further order herein, out of funds now or hereafter coming into its hands, to pay all necessary current expenses of the debtor in preserving its assets and properties, and in conducting its business, including among other expenses the wages, salaries and compensation of officers, attorneys, managers, agents or employees retained by the debtor, and any other services necessary to the continued operation of the debtor’s business, [119] and the costs of maintaining the corporate existence of the debtor, and of printing and publishing any necessary pleadings, motions, petitions or orders on file herein, and any and all expenses reasonably necessary to comply with any and all orders heretofore, or hereafter, made by the court herein.

“12. That full right and jurisdiction be, and it is, hereby reserved to make, from time to time, such orders as this court shall deem proper in executing the powers conferred by the provisions of Chapter X of the Bankruptcy Act and, in general, this court reserves full rights and jurisdiction to make, from time to time, such orders amplifying, extending, limiting or otherwise modifying this order and any and all other orders now or hereafter made, as to this court may, from time to time, seem proper.

“Dated: February 20th, 1941.

“HAROLD LOUDERBACK

“Judge of the District Court.”

(See original of said last mentioned order on file in the office of the Clerk of this Court.)

Thereafter, and on April 14, 1941, the following verified

#### ANSWER

of American Trust Company to petition for corporate reorganization was filed in this proceeding:

“American Trust Company, herein called the Creditor, answering the Debtor’s petition for reorganization and for relief under Chapter X of the Bankruptcy Act, as amended, denies, admits and alleges as follows:

## “I.

“Alleges that Creditor is a corporation organized and existing under and by virtue of the laws of the State of California.

## “II.

“Alleges that the Debtor is justly and truly indebted to the Creditor on notes and deeds of trust in a sum in excess of \$39,114 for moneys borrowed by the Debtor from the Creditor, [120] for interest accrued thereon, for interest on accrued and unpaid interest, and for moneys advanced by the Creditor pursuant to the terms of said deeds of trust for the payment of taxes subject thereto and interest thereon; that the debtor has not paid any of the taxes on the property subject to said deeds of trust for the fiscal year ending June 30, 1940, nor any part of the taxes on said property for the current fiscal year, and failed to pay \$1,308.77 on account of the taxes for the fiscal years ending June 30, 1933, June 30, 1934, and June 30, 1935; that as a consequence of Debtor’s failure to pay said taxes, it was necessary for the Creditor to pay and the Creditor did in fact pay the sum of \$1,308.77 on account of the balance of the taxes on said property for the fiscal years ending June 30, 1933, June 30, 1934, and June 30, 1935, and the further sum of \$1,816.54 for taxes on said property for the fiscal year ending June 30, 1940, and the further sum of

\$819.48 for the first installment of the taxes on said property for the current fiscal year; that no part of the taxes so paid by the Creditor has been repaid to Creditor; that interest has accrued and continues to accrue on the amounts so paid by the Creditor for said taxes and as of March 1, 1941, amounted to \$258.46, no part of which has been paid; that Debtor has not paid any interest on its indebtedness to the Creditor since March 17, 1938; that interest on said indebtedness accrued to March 1, 1941, amounted to \$8,141.76, no part of which has been paid; that interest has accrued and continues to accrue on said delinquent interest and as of March 1, 1941, amounted to \$918.75, no part of which has been paid; that no part of the principal of Debtor's said indebtedness to the Creditor has been paid since prior to August 15, 1936, except the proceeds of the sale of a portion of the property subject to said deeds of trust, amounting to the sum of \$5,900.00 which was paid to the Creditor on September 28, 1939; that the balance of the principal of said indebtedness now due, owing and unpaid [121] is the sum of \$25,810.00, all of which became due long prior to August 15, 1936.

### “III.

“Alleges that the fair market value of the property subject to said deeds of trust is far

less than the obligations secured thereby; and that there is no equity in said property for the Debtor, its creditors or stockholders.

“IV.

“Alleges that by the terms of said deeds of trust Creditor is entitled and for more than four years last past has been entitled to the possession of the property subject thereto and to the rents, issues and profits thereof; that Debtor nevertheless has continued in possession of said property and has retained the rents, issues and profits thereof.

“V.

“Alleges that, as more fully appears by Debtor’s said petition and the schedules appended thereto, Debtor has but two creditors in addition to this Creditor, and that the indebtedness due said other creditors amount to \$3,542.33 in the aggregate as contrasted with the sum of \$39,114.78 due this Creditor from the Debtor as of March 1, 1941; that under the provisions of Chapter X of the Bankruptcy Act, as amended, no plan of reorganization can be effected without the consent of this Creditor; that Creditor has the constitutional right to have the property covered by said deeds of trust subjected to the payment of the indebtedness secured thereby; that Creditor is informed and believes and therefore alleges the

fact to be that the petition filed herein was filed for no other purpose than to hinder and delay Creditor in the pursuit of its just rights and remedies.

#### “VI.

“Alleges that the only businesses which Debtor by the terms of its Articles of Incorporation is authorized to [122] carry on are the business of a laundry and such other businesses as may be connected therewith or necessary for the prosecution thereof; that Debtor has not carried on any business authorized by its Articles of Incorporation for more than two years last past or any business other than the liquidation of its assets; that all of the tangible assets of the Debtor excepting only the real estate subject to deeds of trust held by this Creditor and Florence Brownfield have been sold and the proceeds thereof used and applied to satisfy and discharge the claims of Debtor’s unsecured creditors; that Debtor has neither the working capital nor equipment necessary to enable it to carry on business as a going concern; and that it is impossible for the Debtor to be rehabilitated as a going concern.

#### “VII.

“Answering the allegations of Paragraph III of said petition, admits that the Debtor is unable to pay its debts as they mature, but in that

behalf Creditor is informed and believes that Debtor is insolvent.

### “VIII.

“Answering the allegations of Paragraph IV of said petition denies that said petition is or was filed in good faith or for any purpose other than to hinder and delay this Creditor.

### “IX.

“Answering the allegations of Paragraph V of said petition, denies that the nature of the Debtor’s business is owning, developing and leasing real property and leasing and selling laundry equipment; and in this behalf Creditor alleges that the only businesses which the Debtor may lawfully carry on under the provisions of its Articles of Incorporation are the business of a laundry and such other businesses as may be connected therewith or necessary for the operation thereof; and that for more than two years last past Debtor has not [123] carried on any business other than the liquidation of its assets.

### “X.

“Answering the allegations of Paragraphs VI, VII, VIII and subdivision (a) of Paragraph IX of said petition, Creditor alleges that it has no information or belief sufficient to enable it to answer said allegations and therefore denies each and all thereof.

## “XI.

“Answering the allegations of subdivision (b) of Paragraph IX of said petition, admits that the Debtor is indebted to the Creditor and that such indebtedness is secured by deeds of trust on certain real property, but denies that the amount of said indebtedness is \$33,810.52 or any sum less than \$39,114.78; admits that the trustee under said deed of trust proposes to sell the property subject thereto for the purpose of satisfying the obligations thereby secured; alleges that the amount of said obligations is in excess of the value of said property, and that neither the Debtor, its creditors or stockholders will suffer or sustain any injury as a consequence of the sale of said property; admits that no court proceeding has been commenced or is pending in connection with such sale under said deeds of trust; denies all and singular the allegations contained in said subdivision (b) of Paragraph IX of said petition not herein expressly admitted.

## “XII.

“Denies the allegations of Paragraphs X and XI of said petition.

“Wherefore, Creditor prays that Debtor be not continued in possession of its assets and estate and that either the proceedings be dismissed or a trustee be appointed, and that Creditor be awarded such other and further re-

lief as may be [124] meet and just in the premises.

“AMERICAN TRUST COMPANY

“By A. C. McINTYRE

BROBECK, PHLEGER & HARRISON

HOWARD J. FINN

Attorneys for American

Trust Company”

[Verification omitted for brevity.]

(See original of said answer on file in the office of the Clerk of this Court.)

Subsequently, and on April 17, 1941, the following

ORDER,

omitting, for the sake of brevity the preliminary recitals, was filed herein:

“It is hereby ordered, adjudged and decreed:

“1. That the issues raised herein by said answer of the debtor be, and the same is hereby, referred to Honorable Burton J. Wyman, an Official Referee in Bankruptcy of this court, as Special Master, to take testimony and report to this court, with all convenient speed, as to such issues, and as to whether a trustee should be appointed herein, and as to whether said petition should be dismissed.

“2. The time within which said debtor may file its proposed plan of reorganization herein is hereby extended to fifteen (15) days from

April 14, 1941, to-wit, to and including April 29, 1941.

“Dated: April 16th, 1941.

“HAROLD LOUDERBACK

“United States District Judge

“Approved as to form as provided in Rule 22.  
BROBECK, PHLEGER & HARRISON

Attorneys for the within named  
creditor.”

(See original of said last mentioned order on file  
in the office of the Clerk of this Court.) [125]

At the hearings held before me on April 28, 1941, and May 8, 1941, pursuant to said last mentioned order, Robert B. Gaylord, Jr., Esq., of the firm of Messrs. Gaylord & Gaylord, appeared on behalf of the debtor, and A. M. Dreyer, Esq., representing the firm of Messrs. Brobeck, Phleger & Harrison, appeared on behalf of American Trust Company.

During said hearings, testimony, on behalf of American Trust Company, was given by the following person:

1. GEORGE H. THOMAS, JR.,

who qualified as an expert in the appraisal of properties in and around San Francisco. His valuation of the first parcel of real estate hereinbefore described was \$30,000.00, arrived at, so he stated, by taking into consideration sales of properties in vicinity, the highest and best use to which the prop-

erty might be put, the location, and all elements pertaining to the fair market value of the property.

On

Cross Examination,

this witness further testified:

“Q. Mr. Thomas, you stated you based your value on the laundry property in this case on the highest and best use to which the property can be put. In your opinion, what is that use?

“A. Commercial.

“Q. In what sense?

“A. Well, it could be used for a skating rink, and ice rink, some kind of an amusement center. It really would have to be some kind of special use, I would say, where the people who used it could not afford to put much money into the land and still want a fairly good location. I took into consideration the potentialities, so far as residential is concerned. Due to the fact that the Federal Housing would not lend the money on the property in the vicinity, due to its blighted condition and type of residents, I think the highest and best use would be for some specialized line.

“Q. Have you given consideration, Mr. Thomas, to the value of the property subdivided into lots? A. Yes, I have [126]

“Q. In your opinion would a subdivision of the property increase or decrease its value?

“A. Decrease it.

“Q. How?

“A. Because of the cost that would be entailed in subdividing it, and the amount of available property, and the fact that it would cost as much to build bungalows or flats there as it would in Pacific Heights, and the revenue would be very limited in proportion to what you could get in a better district.”

(For further details with regard to the testimony of the aforesaid witness, see Reporter's Transcript of proceedings of April 28, 1941, and May 8, 1941, pages 3 to 9, inclusive, said transcript being handed up herewith as a part of this certificate and report.)

2. B. A. BANKER,

who also qualified as an expert in appraising properties. He also fixed the market value of the property last referred to at \$30,000.00.

This witness also testified:

“Mr. Dreyer: Q. What price did you place on the property per square foot?

“A. Well, that is about 52 or 53 cents a square foot.

“Q. How does that compare with the selling price per square foot of other subdivisions in San Francisco?

“Mr. Gaylord: Do you want to confine it to that general district?

“The Witness: A. Well, we took into consideration what the property might be sold for if it was subdivided and utilities put in. We subdivided the Oddfellows’ Cemetery and the Masonic Cemetery. I think both are located better than this. We sold the Oddfellows’ off at about 65 cents a square foot, and the Masonic at about 90 cents, after the utilities were in.

“Mr. Dreyer: Q. What would be the cost of placing utilities in this property if it were subdivided?

“A. We would have to figure that out carefully, but I would imagine if you cut one street through it would be 275 feet, that would be [127] the frontage on each side of the street, and it would cost about \$15,000 to put in the utilities—between 12,000 and 15,000.

“Q. What is the area of that property?

“A. About 56,000 or 57,000 square feet.

“Q. By subdividing it would the value be increased or decreased?

“A. Well, in my opinion you could not subdivide it and get \$30,000 for the property.”

\* \* \* \* \*

“Q. This property is in what is known as the blighted area, is it not?

“A. I have heard it called that.”

“Mr. Gaylord: Q. Just a moment. Referring to the blighted area, what is meant by that, in answer to Mr. Dreyer’s question?

"A. In the first place, I did not say it was a blighted area.

"Q. I appreciate that.

"A. I think a blighted area is an area in which it is not sound economically to build a new building or make new improvements, on account of the surrounding improvements."

(See said last mentioned transcript for further details relative to the testimony of said last mentioned witness, pages 9 to 12, inclusive.)

### 3. EDWARD AHNEFELD,

Assistant Cashier of American Trust Company who gave evidence that, as of April 28, 1941, the "balance of principal of the loan is \$25,810.52; the accrued interest up to date is \$8,391.26; the interest on delinquent interest is \$918.75. There is a balance owing on the redemption of the 1932, 1933, 1934 and 1935 taxes in the amount of \$1,308.77; a partial reconveyance cost of \$5.00; the first installment of 1939-1940 taxes, \$908.27; the second installment was the same, \$908.27; cost of filing default notice and the report, I think the default notices are \$12.00; the first installment of 1940-1941 taxes, \$819.48; the advertising costs, \$23.50; interest on [128] the above tax advances, \$258.46; making a total of \$39,364.28, and that does not include, we have not paid the second installment of the 1940-1941 taxes, which recently went delinquent. \* \* \* I believe they were \$819.48. Yes, they are the same, \$819.48, and penal-

ties will have accrued by now, because it went delinquent last Monday.

“Q. What was the date of the last payment of any nature received from this Debtor?

“A. January 28, 1940.

“Q. The amount? A. \$500.

“Q. What was the amount and the date of the next preceding payment?

“A. March 9, 1939, we received \$1,834.95. I cannot say whether that was one item or a couple of items paid into our accounts payable and taken out in the one amount, but the credit was for \$1,834.95.

“Q. And the date of that?

“A. March 9, 1939.

“Q. So since March 9, 1939, to the present time, nothing has been paid, with the exception of one payment of \$500?

“A. That is right.

“Mr. Dreyer: Will it be stipulated that the indebtedness is secured by the deed of trust on the property shown in the map?

“Mr. Gaylord: That is correct.

“Mr. Dreyer: All the other property originally subjected to that deed of trust has been reconveyed.

“Mr. Gaylord: All except the Brownfield property. That does not show in your map, does it, Mr. Dreyer?

“Mr. Dreyer: Yes, all except this.

“Mr. Gaylord: Sorry, I did not notice this.

“Mr. Dreyer: All except Lot 25.

“Mr. Gaylord: A lot 25 feet wide on Steiner Street.

“Mr. Dreyer: Yes.

“The Referee: The deed of trust does not cover that?

“Mr. Dreyer: No, it does not cover that.

“That is all. [129]

#### “Cross Examination

“Mr. Gaylord: Q. Mr. Ahnefeld, the sum of \$5,900 was paid to you—I say to you—the American Trust Company, about October, 1939, is that correct?

“A. That was for the release, yes, \$5,900.

“Q. That has been entered in computing your present balance?

“A. It has been, yes.

“Q. You referred to a payment in March of 1939, of \$1,834? A. Yes.

“Q. From January, 1939, to March of 1939, there was approximately \$4,000 paid, was there not? A. No; going back to 1938.

“Q. Speaking of 1939.

“A. \$1,834.95 during 1939.

“Q. Was \$4,000 paid from January to March, 1938, or thereabouts?

“A. Going back to 1938, \$2,339.60.

“Q. When was that payment made?

“A. December 29, 1938.

“Q. That is how much, again?

“A. \$2,339.60.

“Q. And the only payment received in 1940, then, was \$500? A. That is right.

“Q. Between March of 1939 and January of 1940 you received nothing, principal or interest?

“A. That is right. Well, aside from this \$5,900, for which we issued this partial reconveyance.

“Q. \$5,900 shows on your card?

“A. That is right.

“Q. Were those payments applied to principal or interest? A. The \$5,900?

“Q. Yes.

“A. That was for a partial reconveyance; all principal.

“Q. And was the \$1,834.95 principal or interest?

“A. That went on account of tax advances.

“Q. And the \$500 in January of 1940 went on principal [130] or interest?

“A. That went on tax advances.

“Q. That went on tax advances, also. Has there been any extension of the Statute of Limitations on these notes?

“Mr. Dreyer: Not that I know of.

“The Witness: A. No.

“Mr. Gaylord: I think that is all.

“Redirect Examination

“Mr. Dreyer: Just one moment.

“Q. The Debtor has not paid taxes on this property for more than three years, aside from the repayments on account of tax advances made by you?

“A. Our records would indicate no payments. No, they have not been paid.”

(The entire testimony given by the last mentioned witness is found on pages 12 to 17, inclusive, of said transcript.)

4. CHARLES M. BUFFORD,

the president of the debtor, was also called to the witness stand on behalf of American Trust Company, on April 28, 1941. He testified:

“Q. Are you familiar with all the rents which it has been receiving for the property?

“A. Yes.

“Q. What rentals have been received by the association during the past two years?

“The Witness: Have you the statements there? Have you the lists here, Mr. Gaylord?

“A. I cannot go back accurately, Mr. Dreyer, before January 1, 1940, but in the year 1940 the total rentals received were \$1,655, and to that should be added \$487.82 royalty or percentage on the parking concession; and then there is a small portion of that that probably would not run over \$125, that came in on this

Steiner Street property. So the net is about between \$2,000 and \$2,100 on the property subject to the American Trust deed.

“Mr. Dreyer: Q. What disposition is made of that income? [131]

“A. Well, in the first place, there were expenses on the property amounting to \$138.64; and then there was the \$500 payment to the American Trust Company that was mentioned; then the operating expenses of the laundry company, and they ran about \$160 a month gross.

“Q. What did that consist of, \$160 a month?

“A. Salary I drew, \$150, and about \$10.00 a month for miscellaneous expense.

“Q. In other words, you have been drawing an income from the property of \$150 a month?

“A. Yes.

“Q. It has no asset other than this real estate, has it?

“A. Yes, it has the assets mentioned in the schedule here. In proportion to the amount of assets, the amount taken in, the administration was very large, because there has been a great deal of effort made to interest people in the property.

“Q. You are the principal stockholder of the corporation, are you not, Mr. Bufford?

“A. Yes.

“Q. How many shares do you hold?

“A. 696 out of 1,000.

“Q. This corporation was originally incorporated as a laundry company, was it not?

“A. Yes.

“Q. And operated a laundry up until what time? A. Until November 12, 1938.

“Q. And two years prior to that time it made a conveyance for the benefit of creditors, did it not, with the exception of this real estate?

“A. Well, it is pretty hard—I would not describe the conveyance in exactly that form. It was supposed to be for the mutual benefit of the creditors and the company.

“Q. As a result of that conveyance the Trustee operated the business for a period of two years, did he not? A. Yes.

“Q. And then found it necessary to liquidate the business and assets, did he not?

“A. Well, he did it; whether it was necessary or not is another question.

“Q. The fact remains that the business was liquidated by the Trustee?

“A. Yes. [132]

“Q. And all the unsecured creditors, as a result of that conveyance, were paid, were they not?

“A. Everything was paid except the real estate and the mortgages.

“Q. Since 1938 you have not operated as a laundry at all; just had the real estate?

“A. We have had the real estate, and also

had the remaining assets that had to be collected.

“Q. What were the remaining assets?

“A. Some machinery and accounts receivable.

“Q. What was the machinery? They were just two conditional sales contracts, were they not?

“A. Well, at the present time there are two contracts only outstanding, but we have had other things that have been gradually liquidated prior to that.

“Q. For that service you collected \$150 a month, no taxes were paid, for two years nothing was paid on account of the secured indebtedness, was it? A. In two years?

“Q. Yes.

“A. In two years' time the corner was sold at \$5,900, and that was more than the pro-rata that was due on the corner, although it was applied to that corner lot.

“Q. That was a sale of the real estate?

“A. Yes.

“Q. Talking now of payments made from the income of the corporation.

“A. \$500 to the American Trust Company.

“Q. And the balance largely has gone into your own pocket, has it not? You spoke of \$175 for repairs, I think?

“A. Well, the total receipts for 1940 were about \$3,900, and the total operating expenses

for that time were, for my salary, \$1,800, so it was something under 50 percent.

“Q. What was the other income of the corporation, aside from the rents, which you testified amounted to about \$2,100?

“A. On those conditional sales contracts we collected \$479 down payments.

“Q. In other words, for collections?

“A. And some miscellaneous sums, \$143. Excuse me, the miscellaneous sum only [133] came to \$37.00. There was \$143 out of some litigation I had; \$312 in accounts receivable; and \$93.00 in miscellaneous operating; and \$553 from the Trustee.

“Q. Mr. Bufford, you are an attorney, are you not? A. Yes.

“Q. You do not devote your entire time to the management of this business? A. No.

“Q. How much time do you devote to it?

“A. I think, during 1940, about half my time.

“Q. How much during 1941?

“A. About one-half. There has been a great deal of bookkeeping, and one thing and another, this year.

“Q. You have also published a book recently, haven’t you? A. Yes.

“Q. Notwithstanding that fact you say you devoted half your time to this business?

“A. Yes; it took half the time for the book

and half for the business. I did the book a great deal out of hours.

“Mr. Dryer: That is all.

“Cross Examination

“Mr. Gaylord: Q. Mr. Bufford, I don’t want to go into this completely at this time, but I would like to clear up one or two points from the figures to which you just testified. You have been drawing, for a period of some years, \$150 as your salary as president, out of the corporate funds; is that correct?

“A. Yes.

“Q. Now, over the period of the past year that aggregated about half the income of the corporation? A. Yes.

“Q. Did you have any other employees working for the corporation, or did you do all the work yourself? A. I did it all.

“Q. Mr. Dreyer referred to a book you had published. What is that?

“A. ‘The Wagner Act,’ published by the Lawyers Cooperative Publishing Company.

[134]

“Q. How long has that book been in the process of organization for publication?

“A. About three years.

“Q. With respect to this assignment, that is, the assignment referred to in your schedules, to A. L. May, for the payment of certain unsecured creditors, you are familiar with that transaction, of course? A. Yes.

“Q. Have your accounts with Mr. May been closed as yet?

“A. No; I have a suit pending against Mr. May.

“Q. In connection with the assignments for creditors? A. Yes.

“Q. For how much have you brought suit?

“A. That suit is for \$49,000.

“Q. And that is in process of litigation at the present time? A. Yes.

“Q. Generally speaking, what is the occasion for the suit? What are the grounds for it?

“A. Well, both mismanagement and failure to properly account for certain items of expenditure. Do you wish me to go into further detail?

“Q. No; the point I want to bring out is that it is a suit arising in connection with the administration of the moneys which were collected and paid over to creditors.

“A. It has taken a great deal of detail work to get up a matter of that kind.

“Q. I just want the nature of it.

#### “Redirect Examination

“Mr. Dreyer: I would like to ask a few more questions.

“Q. That suit is against the members of the firm of Jacobs, Blanckenburg & May, is it not? A. Yes.

“Q. Mr. Gaylord is the attorney for the Debtor in this proceeding, is he not?

“A. Yes.

“Q. Not the attorney for the corporation in that proceeding? A. No. [135]

“Q. Who are the attorneys?

“A. Robert E. Hatch.

“Q. And yourself?

“A. Well, he joined me just as a matter of courtesy. I did not know he was going to.

“Q. There has been no order of Court authorizing the employment of any attorney other than Mr. Gaylord, has there?

“A. Everything was ready to file before the first of the year, but Mr. Hatch happened to be engaged in some court work and let it lie on his desk.

“Mr. Gaylord: I think the general order covers.

“Mr. Dreyer: I don’t think it does, in regard to employing attorneys.

“Mr. Galyord: I will stipulate that the only order made on the suit is the order in connection with the approval of this petition.

“The Witness: The retainer was made either October or November of last year. I expected the matter would be so far ahead that probably it would be out of the way before anything else came on.

“Mr. Dreyer: Q. What arrangements have been made to pay Mr. Hatch?

“A. Mr. Hatch received a retainer of \$250

with 20 percent of the recovery. The \$250 to come out of the 20 percent.

“Q. That arrangement never has been approved by the Court? A. No.

“Q. Purely a contingent arrangement?

“A. Yes, except for the down payment.

“Mr. Dreyer: Well, the only point I have in mind in connection with the suit, Your Honor, I don’t like to see the income of the corporation, which really is subject to the deed of trust, being used for the purpose of that litigation. But I will leave that question to be argued later at the conclusion. But I feel strongly that a Trustee should be appointed.

[136]

“Mr. Gaylord: You made reference to the appointment of an appraiser for the property?

“The Master: Yes, I will appoint an appraiser to appraise it.”

(See aforesaid transcript, pages 17 to 23, inclusive.)

On said

CHARLES M. BUFFORD,

called on behalf of the debtor, testified in response to Mr. Gaylord’s questions:

“Q. How long have you been familiar with the affairs of the Debtor?

“A. About 40 years.

“Q. Have you been an officer of the corporation for that period?

“A. Since about 1901.

“Q. Do the assets of the Debtor exceed, or are they less than \$250,000?

“A. They are less than \$250,000.

“Q. I believe you testified at the last hearing, and I have forgotten what your testimony was. Will you state what the present rentals of the corporation are?

“A. An average monthly rental for the three months from January 1 to March 31, this year, of \$226.

“Q. \$226 per month. As I understood your previous testimony, the only expenses in connection with the operation of that business are your salary, which is \$150, on which you are drawing \$150, and miscellaneous office expense.

“A. Yes; that and insurance is the only expense, fire insurance.

“Q. Are there any other employees of the company, paid employees?

“A. No, there is no other.

“Q. From what source do these rents come?

“A. There is a three-story flat building on the Turk Street frontage that occupies a frontage of  $27\frac{1}{2}$  feet, that brings in \$50 a month, and next to it is a store with a rooming house above, and that building brings in \$75 a month. The tenants in each case pay their own water and other miscellaneous expense, and take the apartments as is. [137]

“Q. You also have a parking lot on the property?

“A. Yes, there is a parking lot on Eddy Street, operated on a basis of 25 percent royalty to the owners.

“Q. About how often are those accounts settled between you and the parking lot?

“A. About twice a week. There is also a small brick building in the center of the lot on the west side that has a frontage on Eddy Street, both. It sets back about 75 feet. The building is about 22 feet wide by 40 feet long, and that is bringing in \$10 a month.

“Q. That is the corporation’s building?

“A. Yes.

“Q. Mr. Bufford, referring now to the Debtor’s petition in this matter, the corporation, at the time of filing this petition, was unable to pay its debts as they matured, is that correct?

“A. Yes, it was.

“Q. At the time of filing this petition, and for some time prior thereto, what business had the Debtor been engaged in?

“A. Well, it had for some time prior thereto—I will begin back and work forward.

“Q. Take the period of about a year.

“A. About a year, then. In the sale of laundry machinery and equipment; collection of outstanding accounts in connection with that, and of all accounts receivable; the renting of real property; the fitting of this parking lot

and an effort to put the property to a more beneficial use or sell it, the beneficial use being subdivision in the most likelihood.

“Q. You state in your petition, Mr. Bufford, that the Debtor formerly operated a general laundry business which was liquidated; that is correct? A. Yes, it is.

“Q. About how long before the filing of this petition was that business liquidated?

A. Well, we sold the business in November, 1938, but it took a considerable length of time after that to realize on the assets, because everything [138] was payable in installments or as the equipment was sold.

“Mr. Gaylord: Mr. Dreyer has agreed to stipulate in connection with the allegations of Paragraph V of the petition and the American Trust Company’s answer, that the following are the authorized businesses for the Debtor corporation, pursuant to its article, referring to Article II of the Articles of Incorporation, the purpose for which the said corporation is formed is to carry on and conduct, in all of its branches, the business of a laundry in the City and County of San Francisco, and such other business as may be connected therewith or necessary for the prosecution thereof, which is the only reference in the articles, I believe, to the nature of the corporation’s business. . . .

“Q. In Paragraph IX of your petition it is stated that there was an assignment made in May of 1936 to one A. L. May as Trustee for certain unsecured creditors. Would you state to the Court generally what the nature of the assignment was?

“A. In the spring of 1936 this assignment was made. It was dated May 29th and went into effect on June 17th. It appeared that at the end of 1935 one of the other laundries in San Francisco had shut down, and the principal creditor there was Patek and Company, a laundry supply house; and being also in business with us, they were instrumental in turning over to us a large section of the business, and we needed additional working capital in order to handle it successfully and satisfactorily; and they agreed that if this trusteeship was made, so they would have additional security, they would see that preferred debts were taken care of and that additional funds were advanced, and it was made with the consent of all creditors involved, secured and unsecured.

“Q. That assignment was ultimately liquidated, that is, the assets covered by it were ultimately liquidated? A. Yes.

“Q. At the time of the filing of this petition there were no court proceedings pending in connection with the [139] liquidation other than the one you have just referred to, is that correct?

“A. There was no court proceeding at all pending at the time this was filed.

“Q. It is also stated in your petition, a deed of trust to the American Trust Company. At the time of filing of this petition, the sale of that property under the deed of trust—the property had been noticed for sale under the deed of trust? A. Yes, it had.

“Q. There were no court proceedings commenced or pending in connection with that deed of trust? A. None at all.

“Q. Other than the default notice?

“A. Yes.

“Q. Except as you have heretofore stated, there was no plan of reorganization, or plan for liquidation or adjustment of the affairs of the corporation at the time of the filing of the petition?

“A. There was one that had been discussed, but it had not come to any definite—

“Q. There was nothing pending?

“A. There was nothing pending, no.

“Q. Mr. Bufford, from your knowledge of the business of the Debtor corporation, you state in your petition that it is necessary for the right of secured creditors to be effected or modified, in order to effect a plan of reorganization. That is correct, is it?

“A. Yes, I stated that.

“Q. Mr. Bufford, in your opinion is it possible for the Debtor corporation to be reor-

ganized in such a manner that it may be continued as a regular business?

“A. I think so.

“Mr. Gaylord: If your Honor pleases, we have been advised, prior to this hearing, that there would be some expert testimony in connection with the valuation of the American Trust Company property, or the property secured by the American Trust deed of trust. That expert testimony has not been forthcoming, as I understand from Mr. Bufford, [140] largely because the better known and qualified appraisers were reluctant to testify in this particular proceeding. We have no expert testimony to present to the Court in connection with the value of that property. As I understand, your Honor will attend, or recently has had—

“The Master: There has been an appraisement made of it. On the appraisal that is subject to the deed of trust to the American Trust Company, it has been appraised for \$30,000; on the other parcel, \$3,250.

“Mr. Gaylord: As I say, we have no further expert testimony to offer in that connection. There are one or two points in connection with considering the expert testimony that has been presented in the appraisement your Honor has had made that I would like to bring out from Mr. Bufford as to his knowledge of the property.

“The Master: He has a right to testify.

“Mr. Gaylord: Q. Mr. Bufford, referring to the square block in San Francisco bounded by Turk, Fillmore, Eddy and Steiner Streets, do you have any knowledge as to sales of property in that area within a recent period?

“The Witness: A. Yes, I have.

“Mr. Gaylord: Q. Will you state to the Court what sales you have knowledge on?

“A. Well, I have the knowledge of the sale at the corner of Turk and Steiner first. That is—

“Q. The northwest corner—the northeast corner?

“A. Block 750, and that has a frontage on Turk Street of 65 feet, and on Steiner of 87 feet 6 inches. That was sold to L. R. Levin in the fall of 1939 for \$6,300. After that Mr. Levin built a gas station on it, and he made a sale to E. G. Kimball about the forepart of 1940. The deed has \$23.00 worth of Internal Revenue stamps on it. He was asking \$18,000, and the rise in price from \$18,000 to \$23,000, as shown by the revenue stamps, is due to a trade-in he made. [141] He took a piece of property in San Mateo County as part consideration in the final deal. That property is on a ten-year lease in favor of the Richfield Oil. The oil station cost approximately \$8,000 to build, not more than that, a little less. Then on the corner of Turk

and Fillmore Streets, with a frontage of 130 feet 9 inches on Turk Street, 85 feet on Fillmore, the property was sold to Gussie Gross on August 2, 1940. The Internal Revenue stamps on her deed show \$68.75, which would indicate a price, as we all know, of \$68,750, although it is said the price was shaded a little, because the testimony here was about \$62,500. Then I have an offer on the parcel—I have two offers on the parcel on Steiner Street, 25-foot frontage and a depth of 87 feet 6 inches, title to which is now in the Debtor corporation. One is a proposition from William F. Raker to buy it for \$2,500, the other is a proposition by the holder of the deed of trust to take it in satisfaction of her trust deed. That property is about 2,200 square feet.

“Q. Do you have any knowledge of any other sales in that block?

“A. There have not been any other sales in that block within the last five years that I know of.

“Q. How long have you been familiar with the property, Mr. Bufford?

“A. I have been buying and selling it, as president of the company, for 20 years, and prior to that I was a director of the company, when we made some other real estate transactions in the same block.

“Q. Referring now, Mr. Bufford, particularly to the property covered by the American

Trust Company deed of trust, what, in your opinion, is the value of that property?

“A. I think that property is worth a dollar a square foot. I base that on the value of the surrounding property. This offer that I have for the Steiner Street property is at the rate of \$1.10 per square foot. Fillmore Street frontage [142] was sold, including the building which is very old, at something like \$6.00 a square foot—almost \$6.00. It has something less than 11,000 square feet in it. And the oil station was sold originally, the site of the oil station was sold by me in the fall of 1939, at \$1.10 a square foot, and it has since sold, from Levin to Kimball, for considerably more than that. The diagonal property in the block from Steiner to Pierce and Turk to Golden Gate changed hands about three years ago at about the same figure, a little over a dollar a square foot. The real estate in that particular neighborhood shaves off in value from Fillmore Street.

“Q. From Fillmore to Steiner?

“A. Yes, from Fillmore to Steiner. When the Stafford appraisal was put on property in that block by Stafford and his advisory committee 15 years ago, that was indicated very strongly. Mr. Stafford’s committee put a value of about 50 percent more on the land in the block adjoining Fillmore than he did on the land in the block between Steiner and Pierce. For instance——

“Q. That is a value 15 years ago.

“A. A value 15 years ago, and he made \$220 to \$150 a front foot on the Turk Street front, and on the Eddy Street front the values are higher, it ran from \$260 to \$175 a front foot. \$175 in the block from Steiner to Pierce, and above that in the block down to Fillmore.

“Q. You have had under consideration, have you not, for some period of time, and have been working on a proposed plan for the re-organization of the Debtor?

“A. Yes, I have.

“Q. Will you outline generally for the Court the present setup of that plan?

“Mr. Gaylord: There has been no plan filed, your Honor.

“The Witness: A. This lot, your Honor, is about an average width of 200 feet, and runs through a distance of 275 feet from Turk to Eddy, and the proposal which we are [143] working out is to put a street 50 feet wide between house lines through from Eddy to Turk, and put so-called duplexes, two flats over a garage, on 25-foot lots on either side of that, which would devide the property up into lots 70 feet in depth, each lot with a 25-foot frontage and with an extra lot on Turk Street adjoining, where there is additional width of the property. The lots would comply with the requirements of the Federal Housing Authority for housing loans, and with all requirements of

the Street Board and other City authorities at the City Hall. The buildings would have a depth of about 50 feet, with back yards in between 15 and 20 feet depth. The buildings would cost between \$6,500 and \$7,000 per unit, and would sell at a figure, considering the rentals that are available, that would net \$2,000 per lot income to the Debtor corporation, there being 23 lots, and four of them corner lots, which would bring in a gross in excess of \$46,000.

“We have an architect, George E. Ralph, who has drawn preliminary plans for the buildings; a contractor by the name of Theodore Petrikis, who is willing to go ahead; a street contractor by the name of Ted Hardy has figured the street work; and a broker by the name of C. F. Ross, a licensed realty broker, who has some contacts through which he believes he will be able to place the houses on the market as completed and sold; and we believe that through this plan of putting these improvements on, it will be possible to retire the loan of the American Trust Company, and also realize an equity for the Debtor corporation. The plan has been figured quite thoroughly and I believe all figures involved are within the legitimate costs, the legitimate costs appropriate to that neighborhood.

“The street once laid out will form a little community of its own. At either end of the street, across the street on one side, will be the

wall of the car barn of the Market Street Railway, which forms a quiet ending for the street, so there is no undesirable tenant or vista at that end; and at [144] the other end the rear of the New Fillmore Theater lies, which will form a quiet street and vista as one looks north along this new street.

“Mr. Gaylord: Q. Do you have estimates or figures of the expense of constructing such a street as you have outlined? A. Yes.

“Q. And also the utility work?

“A. The estimates that have come from the various contractors that Mr. Ralph has called in on the work run between \$3,000 and \$4,000. We propose a street with a paved section 26 feet wide, which is the right width for a small street like that according to the Street Department of the Board of Public Works. It permits automobiles to be parked on either side and an automobile to drive down the middle. The sidewalks sit back in line with the house, with plenty of turning room for automobiles. The sewer work is only a small branch sewer to connect with the main branch on Turk Street, and there is no grading to be done, because the lot at present is on the grade of the present street, which keeps the street work at a minimum.

“Mr. Gaylord: That is all.

#### “Cross Examination

“Mr. Dreyer: Q. Mr. Bufford, the plan of reorganization, the assignment which was made

under date of May 29, 1936, was executed by the San Francisco Laundry Association and A. L. May, was it not? A. Yes.

“Q. I ask you if this is a copy of the agreement of assignment?

“A. Yes, that is a copy.

“Mr. Dreyer: May I introduce this in evidence?

“The Master: American Trust Company’s Exhibit No. 1 of this date.

“Mr. Dreyer: Q. That assignment, Mr. Bufford, recites [145] that the company is unable to pay its debts. Is that recital true or not?

“The Witness: A. Yes, that was true, it had not got the ready cash to pay the debts, true in that sense; not true in the sense that it did not have assets and property sufficient to pay.

“Mr. Dreyer: Q. But at least ever since the Trustee under that assignment shut down the business the only business in which the Debtor corporation has been engaged has been the liquidation of its assets?

“A. And the management of its real estate.

“Q. Mr. Bufford, how much rental has the corporation received since this petition was filed?

“A. What date was it filed, Mr. Dreyer?

“Q. I believe it was filed in February.

“A. February 6th.

“Mr. Gaylord: Yes, February 6th. It is notaried the 5th and I presume it was filed the 6th.

“The Master: February 6th.

“The Witness: Between \$400 and \$450.

“Mr. Dreyer: Q. Where is that money?

“A. What has not been spent is on deposit in the American Trust Branch at Fillmore and O’Farrell.

“Q. How much is there?

“A. About \$200 on deposit.

“Q. Have you paid your salary out of that right along? A. Yes.

“Q. There has been no order of Court authorizing you to pay salary?

“A. Yes, the order so provides.

“Q. Coming back to this so-called plan of reorganization which you outlined, Mr. Bufford, that plan is nothing more than a plan for liquidation of the real estate. The corporation, after all of its lots are sold, will go out of business?

“A. That is a matter of the future that is hard to say. It is conceivable that the company might liquidate its debts and still continue to hold the future of the building. [146]

“Q. But in any case the corporation does not intend to engage in the business for which it was originally incorporated?

“A. No, unless one assumes—unless one so interprets the provision connected with the

laundry, the company being engaged in real estate at the time that the articles were filed back in 1875, and it always has been at all times ever since.

“Q. You know, Mr. Bufford, that the Federal Housing Authority will not extend any loans in that neighborhood?

“A. They said they would.

“Q. Who told you that?

“A. The Federal Housing Authority.

“Q. Who?

“A. They told Mr. Ralph, the architect.

“Q. You mentioned some property—excuse me—well, there is nothing to add. You mentioned some property in this vicinity that sold at \$1.10 a square foot, did you not?

“A. Yes.

“Q. Which property?

“A. That is property the Piombo Bros.—they first sold the property to the Associated Oil Company at the diagonal corner.

“Q. Is that on the part of the property originally subject to the American Trust Company deed of trust?

“A. We are speaking across the section, across the street. You are speaking of the L. R. Levin piece.

“Q. That is right.

“A. That was originally subject to the deed of trust, yes.

“Q. But that is a corner lot, is it not?

“A. Yes.

“Q. And this other appraisal you speak of is diagonally across the street, and is also a corner lot?

“A. It is a corner lot, an inside property, just like the laundry property.

“Q. What do you mean by that?

“A. There is an oil station on the corner, but the sale to Piombo Bros. included a section, a large section of land farther up the block. [147]

“Q. There are no corner lots on this property? A. No.

“Q. It is all inside property?

“A. Yes. The advantage of the subdivision I propose is that it will create four corner lots.”

(See pages 24 to 36, inclusive, of the transcript heretofore referred.)

The questions as to whether or not the debtor should be continued in possession of its assets and estate, or whether or not the proceedings should be dismissed or a trustee appointed, were submitted on briefs at the conclusion of the hearing held on May 8, 1941, and those briefs have been filed.

In the meantime, and on May 31, 1941, said debtor filed with the court the following

**PROPOSED PLAN OF REORGANIZATION:**

“Whereas, the above named debtor has duly filed herein its petition for reorganization under the provisions of Chapter X of the Bankruptcy Act, and such reorganization under said plan will tend to rehabilitate the financial status of the debtor, and a reorganization under the provisions of said Chapter X will be to the best interests of the creditors and stockholders of the debtor;

“Now, Therefore, the debtor hereby proposes the following plan for the purpose of effecting a reorganization of its corporate affairs:

“An audit of the books of the debtor herein, made as of February 6, 1941, discloses the following: (Adjustment of American Trust Company debt made to March 1, 1941.)

**“SUMMARY OF ASSETS**

“Cash on hand.....	\$ 90.43
Open accounts receivable.....	985.00
Accounts receivable on contract.....	1,612.00
Furniture and fixtures.....	289.00
Real Estate .....	47,500.00
Unliquidated claim against A. L. May, as trustee (Action filed for \$46,000.00, liquidated value of claim uncertain.)	
	_____
Total.....	\$50,476.43
	[148]

**“SUMMARY OF LIABILITIES**

“Preferred creditors .....	\$ 120.00
Secured creditors:	
American Trust Company.....	39,364.28
Florence B. Brownfield.....	3,517.17
	_____
Total.....	\$43,001.45

**“I.****“Amendment of Articles**

“The debtor proposes to amend its articles of incorporation, and in so far as necessary, its By-Laws, in order that the debtor shall have the necessary corporate powers and authorized stock to carry out this plan of reorganization, in the following three respects, to-wit:

“(a) The corporate powers of the debtor shall be amended by adding thereto the following powers, to-wit:

“(1) In every manner and form to acquire, convey, encumber, own, improve, hold, deal in, operate, develop, manage and control real property of every character.

“(2) In every manner and form to acquire, convey, encumber, own, hold, deal in, operate, manage and control personal property of every character.

“(3) To enter into partnership and joint enterprises of every character in whatsoever line of business engaged whether a business similar to that authorized by these articles of incorporation or otherwise.

“(4) In every manner and form to conduct the business of buying, selling, manufacturing, dealing in and installing manufactured products of any and every character.

“(5) In every manner and form to conduct the business of manufacturing and/or contracting and/or building business for con-

struction and/or installation work of every character. [149]

“(6) In every manner and form to borrow and lend money to secure the payments of obligations of any and every character.

“(7) To enter into contracts and obligations of every character and to incur indebtedness in any and every manner and form.

“(8) To do all acts and things necessary or convenient for and incidental to and in any way connected with all or any of the foregoing enumerated purposes.

“(9) To do any and all acts and things which any natural person lawfully may do or perform.

“(b) To authorize the issuance of \$20,000.00 par value preferred stock of the debtor, such stock to be divided into 200 shares of the par value of \$100.00 per share, and to have an absolute liquidation preference over all other stock of the debtor, and each share to have one vote in the affairs of the corporation, and to share prorata in dividends, if any, on a per share basis with the outstanding common stock of the debtor. Such stock shall be redeemable by and at the will of the debtor, in whole or in part, at any time, or from time to time, at par for cash, and shall be redeemed in the manner hereinafter provided.

“(c) To change the name of the debtor to ‘Cozy Lane Corporation’.

**“II.****“Expense Fund**

“The debtor proposes to create an expense fund to be applied to the payment of expenses, taxes and other charges provided for in this plan, which fund shall consist of the present cash on hand and to be collected, rents to be collected, receipts from general accounts receivable, and receipts from contract accounts.

[150]

**“III.****“Sinking Fund**

“The debtor proposes to create a sinking fund, to consist of the gross proceeds of the sale of its real estate, as provided in this plan, said fund to be applied in the manner hereinafter provided.

**“IV.****“Certificates of Indebtedness**

“The debtor proposes to issue non interest bearing certificates of indebtedness, to have absolute priority over all corporate obligations, secured and unsecured, such certificates to be issued in amount and used for the payment of the necessary expense of building the duplex apartments and performing the necessary street, subdivision and utility work in effecting the real estate subdivision hereinafter mentioned.

## “V.

## “Subdivision of Real Estate

“The principal asset of the debtor is the following described real estate, situated in the City and County of San Francisco, California, and more particularly described as follows, to-wit:

“Commencing at a point on the northerly line of Turk Street, distant thereon 65 feet easterly from the easterly line of Steiner Street; running thence easterly along the said line of Turk Street 216 feet 9 inches to a point distant thereon 130 feet 9 inches westerly from the westerly line of Fillmore Street; thence northerly and parallel with the westerly line of Fillmore Street 137 feet 6 inches; thence at a right angle westerly 6 feet 9 inches; thence at a right angle northerly 137 feet 6 inches to the southerly line of Eddy Street; thence at a right angle westerly along the said line of Eddy Street 187 feet 6 inches to a point distant thereon 87 feet 6 inches easterly from the easterly line of Steiner Street; thence southerly and parallel with the easterly line of Steiner Street 187 feet 6 inches to a point distant 87 feet 6 inches northerly from the northerly line of Turk Street; measured at a right angle thereto; thence westerly and parallel with the northerly line of Turk Street 22 feet 6 inches to the intersection of a line drawn at a right

angle to the northerly line of Turk Street from the point of commencement; and thence southerly along the line so drawn, 87 feet 6 inches to the point of commencement. Being portion of Western Addition Block No. 362.

[151]

“The parcel of land here in question is the largest at present available for a housing development in the entire Fillmore district; and is peculiarly well situated for subdivision purposes. It is immediately adjacent to the Fillmore shopping district, which includes many modern stores, and is close to the most desirable residential construction in the district. As the duplex dwellings herein proposed will face their own quiet street, the project will create its own favorable atmosphere, dominate the housing trend in the immediate neighborhood, cater to those who prefer to live closer in town where distances are less and climatic conditions better, and bring a desirable class of residents and buyers.

“The debtor proposes that said real estate shall be subdivided into twenty-three lots of twenty-five feet frontage, and a public street, fifty feet in width, including sidewalks and parking way, shall be dedicated across said real estate, all in conformity with the subdivision plat of said property attached hereto, marked Exhibit ‘A’, and hereby made a part hereof. The debtor’s property to be subdivided is cov-

ered by the proposed street and Lots Numbers 7 to 38 inclusive, as shown on said plat.

“Whereas, George E. Ralph, as architect, T. D. Harney, as street contractor, and Theodore Patrikis, as general contractor, represented by Herman H. Friedman, are ready, willing and able to proceed forthwith, upon the confirmation of this plan, with the construction of the duplex dwellings in accordance with this plan;

“The debtor, therefore, proposes, upon confirmation of this plan, to construct on Lots 20, 21, 22, 35, 36 and 37, as shown on said plat, duplex dwelling houses, to consist generally of a garage, and the usual facilities on the ground floor, and two dwelling floors above, all in conformity with the laws and ordinances applicable thereto, and the standards of the Federal Housing Administration, and proposes to proceed upon confirmation of this plan, with the construction of said street and [152] the installation of the necessary utilities for servicing such duplex dwellings.

“The debtor is advised and believes that said duplex dwellings can each be constructed for approximately \$6500.00, and the debtor proposes that said duplex houses be constructed at the minimum reasonable cost, and in view of the present increasing construction costs, the debtor proposes that the cost of said duplex houses be limited to \$7500.00 each, and further proposes that the cost of said street work and

the installation of said utilities be limited to \$4000.00.

“The debtor proposes, upon confirmation of this plan, to enter into a contract with said Herman H. Friedman, and said contractors and architect, for the construction of said street, utilities and duplexes, in accordance herewith, which contract shall be subject to the approval of said court, and that the plans and specifications for said houses shall be subject to the approval of said court.

“The debtor proposes that the cost of said dwellings, street work and utilities be borne by the issuance to said Herman H. Friedman, as the representative of said contractors and architect, of said certificates of indebtedness, in an amount equal to the actual cost of such work, such certificates to be issued as work progresses, and against architect's certificates in the customary manner.

“Upon completion of each unit of said duplexes, the same shall be sold by the debtor for cash, at the fair market value, but in no event at less than an amount equal to the costs of sale, and the cost of the construction of such duplexes, plus 1/23 of the cost of such street and utility work, plus 1/23 of the principal of note hereinafter provided for the American Trust Company. The balance of such purchase price above \$1500.00 shall, upon each sale, be paid one-half to Herman H. Friedman for said con-

tractors and architect, as their share of the profit of the joint enterprise of developing said [153] subdivision, and the remaining one-half thereof shall be applied in the following order:

“1st, to the payment of current taxes of the debtor.

“2nd, to the payment of the expense of conducting the business of the debtor.

“3rd, to the payment of current interest on said note, to said American Trust Company.

“4th, to the redemption of the remaining lots in said plat from said note to said American Trust Company.

“5th, to the redemption of said preferred stock.

“After each of said duplexes shall have been sold, the debtor proposes to construct, finance and sell an additional duplex upon another of said lots upon the same terms and conditions and subject to the same restrictions and application of proceeds as the above mentioned duplexes, until all of said lots shall have been so improved and sold.

## “VI.

### “Preferred Creditors

“There is only one preferred creditor of this debtor, namely, the City and County of San Francisco, California, for property taxes, and the debtor proposes to pay delinquent taxes in full from said expense fund, upon confirmation of this plan.

## “VII.

## “Secured Creditors

“There are only two secured creditors of the debtor, namely, Florence B. Brownfield, and the American Trust Company.

“(a) Florence B. Brownfield. The amount due this secured creditor is \$3,517.17, plus interest accruing and to accrue. Said obligation is secured by a Deed of Trust on the property of debtor, situated in the City and County of San Francisco, California, and particularly described as follows, to-wit:

“Commencing at a point on the easterly line of Steiner Street distant thereon 112 feet 6 inches northerly from the northerly line of [154] Turk Street, running thence northerly along the easterly line of Steiner Street 25 feet, thence at right angles easterly 87 feet 6 inches, thence at right angles southerly 25 feet, and thence at right angles westerly 87 feet 6 inches to the point of commencement.

“The value of said last mentioned real estate in no event exceeds the amount of said debt, and said last mentioned creditor, prior to the filing of this petition, indicated a desire upon her part to accept a conveyance of said real property by the debtor in full satisfaction of her debt, principal, interest and advances, and the debtor proposes that in full satisfaction of said debt, it shall, upon confirmation of this plan,

convey said real property to said Florence B. Brownfield, in satisfaction of her debt.

“(b) American Trust Company. The debtor is indebted to the American Trust Company in the principal sum of \$25,810.52, together with cash advances made by said bank in the sum of \$3,985.29, together with interest to March 1, 1941, not in excess of the sum of \$9,318.97, and interest accruing and to accrue upon said obligation at six per cent per annum. Said obligation is secured by a Deed or Deeds of Trust upon all of the lots shown on said plat.

“The debtor proposes, upon confirmation of this plan, and in satisfaction of said obligation of the American Trust Company, to issue to said company its promissory note in the principal sum of \$29,795.81, being the principal of said obligation, together with cash advances, with interest thereon at the rate of four and one-half per cent per annum from the date of said note, said note to be payable on or before two years from the date thereof, and interest to be payable semi-annually commencing six months from the date of said note. The debtor further proposes that said note shall be secured by a Deed of Trust upon all of said real estate shown on said plat, excepting the portion thereof of which the debtor proposes to dedicate for a public street. [155]

“The debtor further proposes, upon confirmation of this plan, to issue to the American

Trust Company, its said preferred capital stock of the par value equal to the interest upon said present obligation to the American Trust Company to the date of issuance of said stock.

“The debtor further proposes that upon payment to the American Trust Company, from the proceeds of the sale of each of said duplexes, of 1/23 of the principal of said note, that said Deed of Trust shall be released for the purposes of sale upon that portion of the property on which such duplex so sold is constructed.

### “VIII.

#### “Unsecured Creditors

“That there are no unsecured creditors of the debtor.

### “IX.

#### “Future Conduct of the Business

“The debtor, after approval and confirmation of this plan of reorganization, proposes to conduct its corporate affairs along the same lines, and to maintain the same policy as heretofore, but does not intend to engage in the general laundry business, or in the purchase and sale of laundry equipment, until this plan has been fully effected, other than the collection of present outstanding laundry accounts and the collection of moneys from outstanding accounts on laundry equipment heretofore sold.

## “X.

## “Litigation

“The debtor has commenced suit against one A. L. May for \$46,000.00, and the debtor proposes to prosecute said suit to final judgment. The debtor prior to the filing of its petition for reorganization herein, agreed to pay to Robert E. Hatch, for services as its attorney therein, the sum of \$250.00, as a retainer, plus a contingent fee of fifty [156] per cent of the first \$1,000.00 of the net recovery therein, and twenty-five per cent of the balance, and the debtor proposes, subject to the approval of said court, to complete said contract and to apply the net proceeds of said suit in the same manner and order as the proceeds of the sale of said duplexes.

## “XI.

## “Officers’ Salaries

“The only officer of the debtor who receives any salary is its President, who now receives the sum of \$150.00 per month. It is proposed that such salary be continued and that the President, until this plan is fully effected, shall be the only paid employee or officer of the debtor.

## “Cost of Administration

“The cost and expense of administration of this proceeding are to be borne by the debtor solely, and to be paid in cash on the date of the confirmation of this plan, from said ex-

pense fund. As to allowance to attorneys for debtor for services rendered herein, as well as for services which may be rendered, the debtor and his counsel have agreed to leave the same to the sole discretion of said court.

#### “Conclusion

“It is respectfully submitted that the foregoing plan is fair and equitable in all respects, and the debtor respectfully requests all creditors to join in a consent to this plan, so that they, as well as the debtor, will receive the maximum benefits.

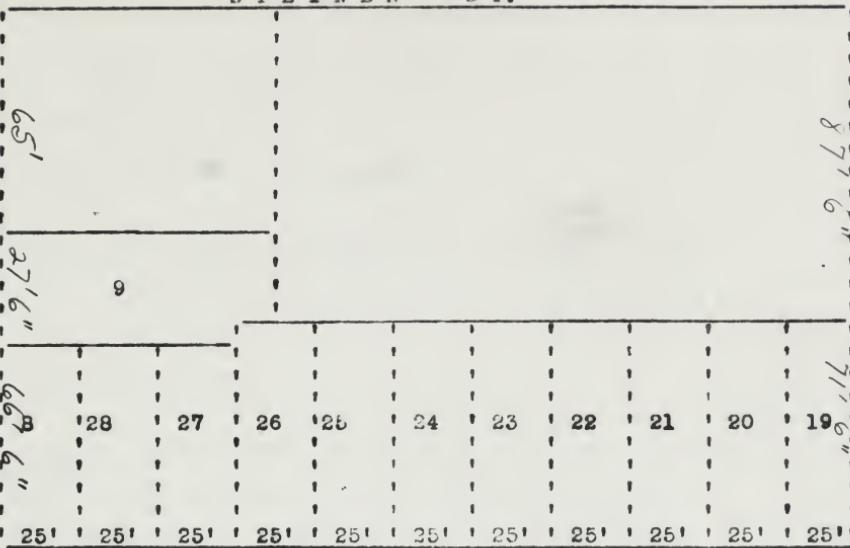
“Respectfully submitted,

“SAN FRANCISCO LAUNDRY  
ASSOCIATION

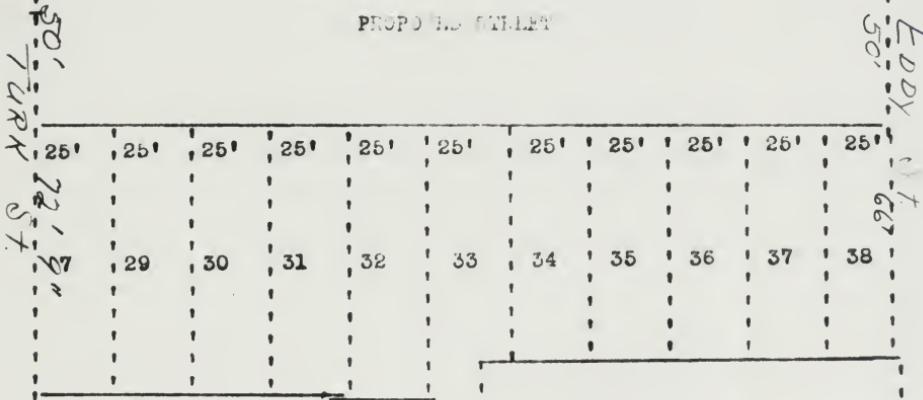
[Seal]      “By CHARLES M. BUFFORD  
“President

Debtor.” [157]

## STEINER ST.



## PROPOSED STAIR



## FILLMORE ST.



(See original thereof in the office of the Clerk of this Court.)

On June 18, 1941, the following

## OBJECTIONS OF AMERICAN TRUST COMPANY TO PROPOSED PLAN OF REORGANIZATION

were filed herein:

“American Trust Company, a creditor of the Debtor above named, hereby objects to the plan of reorganization proposed herein by the Debtor, on the ground that the said plan is unfair and inequitable in each of the following particulars:

“1. Said Debtor is insolvent and the said plan of reorganization contemplates the realization by the Debtor and the stockholders and officers of money, assets, and property of the Debtor at the expense of the Creditor.

“2. The said plan of reorganization contemplates the creation of a prior encumbrance upon the property hypothecated to the Creditor, notwithstanding the fact that the obligations due from the Debtor to the Creditor far exceed the value of said property.

“3. The said plan of reorganization discriminates unjustly in favor of Florence B. Brownfield, a creditor of the Debtor, and against the Creditor, in that it contemplates that the property hypothecated to said Florence B. Brown-

field shall be conveyed to her in satisfaction of the obligations owing to her but contemplates that the property hypothecated to the Creditor shall be retained by the Debtor.

“4. The said plan of reorganization provides for the scaling down of the indebtedness owing to the Creditor.

“5. The said plan of reorganization contemplates that the assets of the Debtor shall be used in a speculative venture for which there is no reasonable prospect of success.

“Wherefore, said American Trust Company prays that said plan of reorganization be disapproved and that the proceedings [159] be dismissed or the Debtor adjudicated a bankrupt.

“BROBECK, PHLEGER  
& HARRISON

“Attorneys for American  
Trust Company, Debtor.”

(See original thereof in the office of the Clerk of the Court.)

The following

ORDER OF REFERENCE,

omitting therefrom the preliminary recitals, was made herein on June 18, 1941:

“It Is Hereby Ordered, Adjudged and Decreed: That the issues raised herein by the objections of the American Trust Company to the Debtor’s proposed plan of reorganization be

and the same are hereby referred to Honorable Burton J. *Wymen*, as special master to take testimony, and report to this Court with all convenient speed as to such issues and as to whether the said plan should be approved or the proceedings dismissed, or the Debtor adjudicated a bankrupt.

Dated: June 18, 1941.

“A. F. ST. SURE

“United States District  
Judge.”

(See original thereof in the office of the Clerk of this Court.)

A hearing was held before the undersigned on said objections on June 19, 1941, at which time I was attended upon by Robert B. Gaylord, Jr., Esq., representing the firm of Brobeck, Phleger & Harrison, the attorneys for American Trust Company, the objecting creditor.

The following

#### PROCEEDINGS

were had at said last referred to hearing: [160]

“The Master: You may proceed with the San Francisco Laundry Association.

“Mr. Dreyer: This matter comes again before your Honor on the hearing of the Debtor’s proposed plan of reorganization and the objections thereto interposed by the American Trust Company.

“The Master: I have copies before me. I have the file, the District Court file, and also I have the orders of reference.

“Mr. Dreyer: Well, what is the ordinary order of procedure? Perhaps Mr. Gaylord would like to outline the provisions of the plan.

“The Master: Very well.

“Mr. Gaylord: I don’t know whether the Court has had an opportunity to review the plan.

“The Master: I looked it over when it first came in; I have not looked at it since.

“Mr. Gaylord: I will run through the major highlights. The plan, in general, sets forth a summary of the assets and liabilities of the Debtor, which showed at the time the figures were gotten up, general assets of just over \$50,000, consisting in part of cash, a small amount of cash, quick assets totalling approximately \$3,000. There is one preferred creditor, the City and County of San Francisco, for taxes, and there are two secured creditors; one being the American Trust Company, and the other being a Florence Brownfield, who holds security on one lot adjoining the general property here in question.

“The plan provides for an amendment of the Articles of Incorporation in certain respects in order to enable the Debtor to have proper power to carry out this proceeding. It is not necessary to go into them in detail. It further

provides for the creation of an expense fund, which consists of the quick assets of the corporation, cash, accounts [161] receivable, and some contracts receivable, and proposes that the expenses of this proceeding be paid from that fund; it also proposes the creation of a sinking fund consisting of pieces of San Francisco real estate as is later provided in the plan, and for the issuance of certificates of indebtedness which shall have absolute priority over secured and unsecured creditors to the extent of what, in effect, is new money coming into the business. The plan provides for the erection of certain structures on subdivided property, and it is proposed to pay for those improvements with the certificates of indebtedness.

“Your Honor will recall from the previous hearing the general property involved, and it is proposed to subdivide that property by running a 50-foot street approximately through the middle, from Turk to Eddy Street, and subdividing the remaining property into some 23 lots of an average of about 25 feet and a depth varying from 66 feet to something over 77 feet. There would be, in the subdivision plan, some 23 lots.

“The Debtor proposes, in the first instance, to erect upon six of those lots, given by number—I believe they are the lots facing on Eddy Street—duplex dwelling houses, the general outline of which is given in the plan, and has an

understanding with one Mr. Ralph, an architect, and Mr. Hardy, a street contractor, and Mr. Petrikis, general contractor, all represented by Mr. Friedman, who are ready to proceed with building these duplex houses and receive payment in certificates of indebtedness which bear no interest. The Debtor proposes immediately to build six of those dwelling houses; as soon as one is sold, to continue developing, lot by lot, and the Debtor has estimated, in connection with the various contractors and the architect, that those duplexes can be constructed at the present time for approximately [162] \$6,500. I appreciate that building costs and so forth are going up, and no one knows how high they will go. For that reason the maximum limit of \$7,500 has been placed on the various dwellings, and the maximum of \$4,000 for the installation of streets and necessary utilities, which the Debtor is advised by the contractors can be installed for not in excess of that figure.

“As I say, the Debtor proposes, on the completion of the units, to sell one unit and build another, on the same basis, and proposes that the dwellings and lots on which they are situated shall be sold for not less than the price which equals the proportionate cost of the street work, the proportionate cost of the note to the American Trust Company, and the balance of the purchase price over \$1,500, which would leave a small margin to the Debtor there, to be

applied first to the payment of taxes, the expense of conducting the business, the payment of interest on the note of the American Trust Company, and the redemption in so far as there is equity over that redemption, of additional lots from the American Trust Company's mortgage.

“With respect to the preferred creditors, in the case of Mrs. Brownfield, the only other secured creditor, the Debtor proposes to transfer her property to her in satisfaction of her debt, believing the value will warrant such a transfer. So far as the American Trust Company is concerned, the Debtor proposes to execute a new note for something in excess of \$25,000, being the balance of principal on their debt, plus their cash advances, also including the interest. I believe there is a proposed reduction of the rate of interest on the new note,  $4\frac{1}{2}$  percent. The principal of the note now would be \$29,000, and it is proposed to issue for the interest now accrued at six percent on the American Trust Company note, preferred stock to the American Trust Company, [163] which will have a liquidation preference over other stockholders of the corporation.

“There are no unsecured creditors in this matter. I might make an explanation. There was a showing in the original schedule of unsecured obligations, I believe, of \$23.00, something like that, which, as it developed, was not,

in effect, a claim against the Laundry Association; it was a trust, and it seems this trust used the same bank account as the San Francisco Laundry. In reality, it was their money. There are no unsecured creditors.

“In respect of the future conduct of the business, the Debtor proposes to continue along the same line as now, and further proposes, in connection with a suit that has been filed in a rather substantial sum, the exact value of which no one can tell at this time, to apply what proceeds there may be from that suit to the payment of the obligations in the order above outlined.

“The only salaries to be paid are a proposed salary for the president, Mr. Bufford, of \$150 a month. The plan further provides there shall be no other salaried employees of the Debtor.

“With respect to the other costs of administration and so forth to be approved by the District Court:

“As Mr. Dreyer said, I am not sure what your Honor’s procedure on these matters is.

“The Master: This is a motion to dismiss.

“Mr. Dreyer: This is an opposition.

“The Master: It really amounts to a motion.

“Mr. Dreyer: To dismiss or adjudicate the Debtor a bankrupt.

“The Master: Yes.

“Mr. Dreyer: I would like to introduce in evidence, your Honor, the testimony which was

adduced on the hearing on the issues raised by the answer, if agreeable. [164]

Mr. Gaylord:

“I have no objections, Mr. Dreyer. The only thing in connection with the expert testimony, I have no objection to stipulating that if they were called they would testify the same as before, but I do object to the admission of their testimony in so far as the present value of the real estate is concerned in its existing condition. I believe the proper basis of valuation of the property for the purpose of the plan of re-organization would be the value of the property as improved and subdivided with duplex structures erected upon it. In other words, whether this plan is practical or not depends almost entirely upon whether or not the duplex houses and the lots on which they are situated can be sold to realize equity over the obligations against them. As I understand, I don’t think the testimony as to the existing values of the land is material.

“Mr. Dreyer: If the Court please, I think that is the only evidence that is material. We cannot be compelled to enter into a speculative venture which is entirely dependent on whether or not they can sell these houses for the prices they indicate. I think, so far as the Debtor is concerned, the present value of the assets is far less than the amount of obligations. Neither the stockholders nor anybody else ex-

cept the American Trust Company has any right to vote on this plan. So I think the present value is the only question involved.

“The Master: I think so, Mr. Gaylord; otherwise you are speculating on what maybe will happen in the future.

“Mr. Gaylord: Of course, that is necessarily true of any reorganization, is it not, your Honor, whether the business can be operated at a profit or not? Which comes back to the same thing: whether its product, whatever it may be, can be sold at a profit.

“The Master: That is true, but so far as fixed assets are concerned, you have to take them at the present value. [165]

“Mr. Gaylord: I would like to submit authorities on that point. But I have no objection to stipulating, as Mr. Dreyer suggests, except for the objection just made.

“The Master: As I recall it, there is expert testimony both ways on the matter as to whether or not they could be subdivided.

“Mr. Dreyer: That is correct.

“Mr. Gaylord: If my recollection is correct, I believe Mr. Bunker—I have forgotten the name of the other man who testified—testified he had not considered the property as subdivision property.

“The Master: He said because he knew something about the cost of subdividing, and it could not be done.

“Mr. Gaylord: He also placed the cost of the utilities at \$15,000 against \$4,000.

“The Master: I understand, but that is a difference of opinion there as to who is right.

“Mr. Gaylord: I would like to submit authorities.

“The Master: Very well.

“Mr. Gaylord: I do feel the value is a prospective value.

“The Master: Do you want to submit it?

“Mr. Dreyer: I think we may as well submit it.

“The Master: Now, about your authorities, say five, five and three?

“Mr. Dreyer: That is agreeable.

“The Master: Very well.

“Mr. Dreyer: There is one point I would like to take up with your Honor before we adjourn; that is, some question is raised in the brief filed by the Debtor to the effect that some value should be given to the claim against Mr. May. Now, if that is seriously urged, I guess I should go into the question of the value of that claim.

“The Master: You can do that in your brief. [166]

“Mr. Dreyer: It would require some kind of examination as to the merits of the suit.

“The Master: How can you determine what a Court is going to decide?

“Mr. Dreyer: I don’t know, but the Debtor asserts it should be given value. This is a litigated case; certainly Mr. May is not conceding that he is obligated to them in the amount of \$46,000; actually he is contending he is not obligated in any amount whatsoever. The contention raised in the brief previously filed here is that giving consideration to that claim, the Debtor is not insolvent. If that is the case, certainly I want to try the issue here.

“Mr. Gaylord: Mr. Dreyer, I have carefully avoided putting in any of the financial statements a showing of any actual value on that claim other than to mention it, because I appreciate that nobody can say what it is worth. On the other hand, it is an asset of the Debtor; for that reason it has been mentioned as the proceeding went along.

“Mr. Dreyer: I think, your Honor, to give some basis to show there is no valid claim against Mr. May, I will introduce a copy of the complaint filed against him. The complaint is obviously fatally defective, particularly considered in the light of the assignment I have previously introduced in evidence.

“Mr. Gaylord: Of course, that amounts to a trial of a lawsuit here, your Honor.

“The Master: Well, if you are resting on the claim, I presume counsel would have the right to try the matter here.

“Mr. Gaylord: I have no objection to the complaint going in for the purpose of showing the nature and so forth of the claim made.

“Mr. Dreyer: I want to go further than that. I think that is already gone into. It does not state a cause of [167] action. I don’t know, it might be possible to amend the complaint, but taken in the light of the assignment previously introduced, I don’t see how they have any cause of action whatsoever.

“The Master: If the Debtor claims that is a valuable asset, isn’t it up to him to prove it?

“Mr. Dreyer: I imagine that is right.

“The Master: In the absence of any testimony showing it is a valuable asset, why, the Court would have to say it is a speculative matter, because what a Court is going to decide is pretty hard to determine.

“Mr. Gaylord: I agree with that. On the other hand, I am not prepared to try the suit here.

“Mr. Dreyer: In view of the fact that you are not agreeing to try it here, are you claiming it has any value?

“Mr. Gaylord: I simply made reference to that claim in the brief, showing the existing claim outstanding. I appreciate that nobody can tell what its value is without a trial of the suit. If this Court tried it here, the Superior Court might well take another view.

“The Master: Surely. But isn’t it up to the Debtor, who claims it is a valuable asset, to make some showing here other than the mere mention of it?

“Mr. Gaylord: If it is to be considered that it has a specific value in the statement of assets and liabilities, yes.

“The Master: Do I understand you are waiving that claim?

“Mr. Gaylord: We are not waiving it.

“The Master: You are just leaving it in its present state?

“Mr. Gaylord: We are just leaving it in its present state. If Mr. Dreyer cares to put in the complaint, there is no objection to that. [168]

“Mr. Dreyer: I think I better put it in so there will be some basis, if there is no objection on your Honor’s part .

“The Master: There is no objection, but I don’t see that anything is before me; just something referred to in the briefs. If you want to put it in, it is all right, Mr. Dreyer.

“Mr. Dreyer: I am quite in accord with your views on it, your Honor. I think I will leave it out.

“The Master: Then the matter is submitted?

“Mr. Gaylord: If your Honor please, may I put Mr. Bufford on the stand for a few questions in connection with the subdivision?

“The Master: Surely; yes.

**“CHARLES M. BUFFORD**

“Recalled.

“The Master: You have been sworn already.

“Mr. Gaylord: Q. Mr. Bufford, you state in the plan of reorganization originally executed by you as president, that the street work in connection with this subdivision shall not exceed the sum of \$4,000. Upon what do you base the statement that the street work can be put in for that amount?

“The Witness: A. Well, I discussed the matter last year with Mr. Fay, of the Fay Improvement Company.

“Mr. Dreyer: I object to that. You cannot testify as to that conversation, Mr. Bufford.

“The Witness: Well, you asked what I based it on. On my investigation as to the cost of the street work.

“Mr. Gaylord: Q. What investigation have you made?

“A. I investigated from the Board of Public Works, or the Street department of the engineer’s office in the City Hall, what was necessary, and was informed that a 26-foot pavement was satisfactory with the city authorities. Then [169] I ascertained the cost of the various elements that went into a street of that width.

“Mr. Gaylord: I believe Mr. Bufford already testified he was familiar with property values and so forth.

(Testimony of Charles M. Bufford.)

“The Master: Yes.

“Mr. Gaylord: It is not necessary to go into that.

“Q. Mr. Bufford, in your opinion what can these lots be sold for improved with duplex dwellings as outlined in your plan?

“Mr. Dreyer: Just a minute, your Honor. I assume that testimony will be based on the fact that he is an officer of the company that is the owner of the property.

“Mr. Gaylord: Also, as a matter of fact, I believe Mr. Bufford testified that he dealt in real estate out there some number of years.

“Q. How many years?

“The Witness: A. Forty years. I studied real estate values in that neighborhood quite thoroughly.

“Mr. Dreyer: I think I have the right to go into the question of his qualifications.

“The Master: Yes.

“Mr. Dreyer: Q. Have you ever bought or sold real estate?

“The Witness: A. Yes.

“Mr. Dreyer: Q. At what prices, where located, and at what times?

“A. Both bought and sold right in that particular block.

“Q. Name the parcels, the dates, the amounts and prices.

(Testimony of Charles M. Bufford.)

“A. I sold a parcel on Fillmore Street in 1918, with a frontage of 22 feet on Fillmore Street, at a price of about \$600 a front foot.

“Q. Where on Fillmore Street was that located?

“A. It is between Turk and Eddy. And 85 feet north of Turk Street. [170]

“Q. Who was the owner of that property?

“A. The San Francisco Laundry Association, the Debtor. I sold it to the California Baking Company.

“Q. What other sales have you made?

“A. I sold the corner of Turk and Fillmore with an 85-foot frontage on Fillmore Street and 130 feet and some inches on Turk Street, in 1923.

“Q. Whom did you sell it to?

“A. I cannot tell you the gentleman's name offhand. He is a gentleman who has an office there at about 130 Sutter Street, in the back of the building, the rear of the same building where Grace Perego's real estate office is.

“Q. Who was the owner of that property?

“A. The same, the Debtor.

“Q. I take it that all the sales you made have been sales of property owned by the San Francisco Laundry Association?

“A. Yes. Then I bought property also in that block. I bought this lot on Steiner Street,

(Testimony of Charles M. Bufford.) which is the subject of the deed of trust held by Mrs. Brownfield, at public auction.

“Mr. Dreyer: I submit, your Honor, he cannot qualify as an expert. He can testify to the value as an owner.

“The Master: I think that is true.

“Mr. Gaylord: Q. Have you personal knowledge of other sales in the district, Mr. Bufford?

“The Witness: A. Yes; a sale in the block above there last year, to the Piombo Bros., the draying company.

“Mr. Dreyer: Q. I think you testified.

“A. I think I testified about that thing.

“Q. And your information was obtained from the records, was it not?

“A. Well, yes.

“Q. The revenue stamps and deeds?

“A. And also from other sources. [171]

“Mr. Dreyer: I think, your Honor, it is quite competent for him to testify as an owner, and his evidence can be considered; I don't think it is entitled to the weight of expert testimony.

“The Witness: It is also the custom of real estate people in the real estate business to figure city real estate on a depth of 100 feet for all estimates of front foot value, and real estate people, ever since the middle of the last century, have been developing tables for depth values on real estate. For instance, the first table of

(Testimony of Charles M. Bufford.)

that sort that was developed was back about 1850, in New York, where it was figured that the front 25 feet of a lot of that depth had 40 percent of the value; the next 25 feet had 30 percent; the next 25 feet 20 percent; and the rear 25 feet 10 percent. In other words, they call it a four, three, two, one rule. That rule was afterwards—

“Mr. Dreyer: May I ask the materiality of this, Mr. Gaylord?

“Mr. Gaylord: Q. I was going to say, Mr. Bufford, will you testify as an officer of the Debtor corporation, and the testimony previously adduced, as to your knowledge of the value in the district?

“Mr. Gaylord: But the objection, I take it, goes to the weight of Mr. Bufford’s testimony.

“Q. Answer the previous question I asked as to what, in your opinion, these lots will sell for improved in the manner outlined in the proposed plan of reorganization.

“The Witness: A. The reason I was making the statement I did was because a shallow lot is worth more per front foot in a city than a deep lot. It has a greater value per square foot, owing to the fact that it has more frontage.

“Mr. Gaylord: Q. Mr. Bufford, would you be kind enough just to answer the question previously asked? [172]

(Testimony of Charles M. Bufford.)

“The Witness: Give me the question again.

“Mr. Gaylord: Q. As to what, in your opinion, these lots, improved as outlined in the plan, can be sold for.

“A. They will have a value of about \$2,000 a lot.

“Q. Talking about improved, what is the sale price? A. The Land value.

“Q. I am not asking the land value; I am asking what the lots, improved as outlined in the plan, will sell for.

“A. About \$10,000 a lot.

“Q. Mr. Bufford, is the land in this district improved with other residence property?

“A. Yes.

“Q. To what extent? I am asking what you personally know about it, what sort of houses, apartment houses, dwelling houses, where are they, and so forth.

“A. There are, across the street on Eddy Street, from where this proposed development is, there is a row of flats; nextdoor to it, to the west on Eddy Street, there are two flats; in the back, to the east of it from Fillmore to Webster, between Eddy and Turk, there are a number of apartment houses of various sizes, and there are other residences both on Eddy and Turk Street. In the back, to the west of it, one side of the block is occupied by Foster &

(Testimony of Charles M. Bufford.)

Kleiser; the other side is occupied partially by residences.

“Q. Are there any new improvements going into this district, so far as you know?

“A. Across the street is a modernization program going on for these flats I spoke of, on the north side of Eddy between Fillmore and Steiner, and in the last six months the flat immediately to the west of the property has been modernized.

“Q. Do you have any knowledge as to the demand for residence property in the district?

“A. Yes.

“Q. What is the demand?

“A. Very good. There are no vacancies in the neighborhood, or very few vacancies, I should say. The vacancies, as I checked, are less than 10 percent. [173]

“Mr. Gaylord: I think that is all.

“The Master: Cross examination?

“Mr. Dreyer: No questions.

“The Master: The matter may be submitted.

“(Submitted—5, 5 and 3)”

(See original of Reporter's Transcript of proceedings of June 19, 1941, handed up herewith as a part of this certificate and report.)

Although there have been hearings on two different matters in connection with this debtor proceed-

ing, as is shown in detail by the record herein, I am of the opinion that the court can best deal with the pending questions on the basis of American Trust Company's prayer at the end of its objections "that said plan of reorganization be disapproved and that the proceedings be dismissed or Debtor adjudicated a bankrupt."

Proceeding on the theory just stated, I find from the record that each and all of said objections are true, and I therefore conclude, as matters of law, that said objections are sufficient upon which to base an order disapproving the proposed plan of reorganization and dismissing the debtor's proceeding, or an order adjudicating said debtor a bankrupt.

I therefore respectfully recommend that the court make one or the other of the aforesaid prayed for orders.

#### Special Master's Fees and Expenses

I am of the opinion that the sum of \$100.00 is a fair and reasonable sum to be paid me as my compensation as special master for holding the three hearings hereinbefore referred to, and the preparation of this certificate and report.

I also am of the opinion that the sum of \$19.75 is a fair and reasonable sum to be allowed Mrs. Carolyn R. Blair to cover the per diem of the stenographic reporter at the hearing of June 19, 1941, and the preparation of the aforesaid transcript of her notes taken [174] at said last mentioned hearing.

I also am of the opinion that the sum of \$5.00 is a fair and reasonable sum to be allowed B. J. Abrott for his services in appraising the real property of the above named debtor.

I also am of the opinion that the sum of \$30.00 is a fair and reasonable sum to be allowed me for my office and clerical expenses in connection with said hearings and the preparation of the within certificate and report.

I respectfully suggest that in any order which is made in connection with this certificate and report, provision be made for the aforesaid allowances, or such other allowances as to the court shall seem proper in the premises, and that any allowances which are made by the court in this connection be made payable by the objecting creditor, said allowances to be chargeable as costs against the estate of said debtor whether the proceedings herein be dismissed or that said debtor be adjudicated a bankrupt.

#### Papers Handed Up Herewith

I hand up herewith the following papers:

1. Appointment, Oath and Report of Appraiser;
2. Reporter's Transcript of hearings held on April 28, 1941 and May 8, 1941;
3. Brief of American Trust Company;
4. Brief of San Francisco Laundry Association on Answer of American Trust Company;
5. Reporter's Transcript of Hearing held June 19, 1941; and

6. Debtor's Brief on Objections of American Trust Company to Proposed Plan of Reorganization, and

7. Envelope containing evidence.

Dated: July 24, 1941.

Respectfulliy submitted,

BURTON J. WYMAN,  
Special Master.

[Endorsed]: Filed Jul. 24, 1941. [175]

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[Title of District Court and Cause.]

**DEBTOR'S EXCEPTIONS TO CERTIFICATE  
AND REPORT OF SPECIAL MASTER ON  
ISSUES RAISED BY ANSWER OF AMER-  
ICAN TRUST COMPANY TO PETITION  
FOR CORPORATE REORGANIZATION  
AND OBJECTIONS OF AMERICAN  
TRUST COMPANY TO PROPOSED PLAN  
OF REORGANIZATION.**

San Francisco Laundry Association, the above named debtor, hereby notes the following exceptions to said certificate and each of its recommendations, findings and rulings, dated and filed herein on July 24, 1941:

1. That said certificate is erroneous in finding that [176] said debtor is insolvent.
2. That said certificate is erroneous in finding that the plan of reorganization herein contemplates

the realization by the debtor and stockholders and officers of money, assets and property of the debtor at the expense of the creditors.

3. That said certificate is erroneous in finding that said plan of reorganization contemplates the creation of a prior encumbrance upon the property hypothecated to the creditors.

4. That said certificate is erroneous in finding that the obligations due from the debtor to the creditor exceed the value of the debtor's property.

5. That said certificate is erroneous in finding that the said plan of reorganization discriminates unjustly in favor of Florence B. Brownfield, a creditor of the debtor, and against the creditor.

6. That said certificate is erroneous in finding that said plan of reorganization provides for the scaling down of the indebtedness owing to the creditor.

7. That said certificate is erroneous in finding that said plan of reorganization contemplates that the assets of the debtor shall be used in a speculative venture.

8. That said certificate is erroneous in finding that said plan of reorganization presents no reasonable prospect of success.

9. That said certificate is erroneous in that said special master at the hearing in connection therewith considered only the present value of the security for the obligation of said American Trust Company.

10. That said certificate is erroneous in that the special master at the hearing in connection therewith refused to consider the subdivided and improved value of the security of the [177] of the obligation of said American Trust Company.

11. That said certificate is erroneous in that no findings of fact are made therein.

12. That said certificate is erroneous in that no findings of fact or conclusions of law or either of them are made with respect to the answer of said American Trust Company.

GAYLORD & GAYLORD,  
Attorneys for Debtor.

Received, copy of the within Debtor's Exceptions this 2 day of August, 1941.

BROBECK, PHLEGER &  
HARRISON,  
Attorneys for American Trust  
Company.

Received, copy of the within Debtor's Exceptions this 2nd day of August, 1941.

BURTON J. WYMAN,  
Special Master.

[Endorsed]: Filed Aug. 2, 1941. [178]

District Court of the United States  
Northern District of California  
Southern Division

At a Stated Term of the Southern Division of the United States District Court for the Northern District of California, held at the Court Room thereof, in the City and County of San Francisco, on Friday, the 12th day of September, in the year of our Lord one thousand nine hundred and forty-one.

Present: The Honorable Harold Louderback, District Judge.

No. 33553-L.

In the Matter of  
SAN FRANCISCO LAUNDRY ASSOCIATION,  
Debtor.

(ORDER DISAPPROVING REORGANIZATION PLAN, DISMISSING PROCEEDINGS, AND ALLOWING CERTAIN FEES, etc.)

The Special Master's certificate and report filed July 24, 1941 on the issues raised by the answer of the American Trust Co. to the Petition for Corporate Reorganization, having been submitted and fully considered, It Is Ordered that the said Special Master's Certificate be and the same is hereby affirmed and the exceptions thereto are hereby overruled. It Is Further Ordered that the Plan of

Reorganization be and the same is hereby disapproved and these proceedings are hereby Dismissed. Further ordered that the following fees be and the same are hereby allowed, payable to the objecting creditor and chargeable as costs against the estate of the Debtor, viz:

1. Special Master's compensation.....	\$100.00
2. Special Master's stenographic reporter.....	19.75
3. Special Master's clerical expenses, etc.....	30.00
4. To B. J. Abrott for his services in appraising the real property of the debtor.....	5.00

[179]

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[Title of District Court and Cause.]

NOTICE OF MOTION

To the Clerk of this Court, and to  
Brobeck, Phleger & Harrison, and  
Mr. Howard J. Finn, Attorneys for  
American Trust Company:

Please take notice that on Monday, the 13th day of October 1941, at the hour of 10 o'clock A. M., or as soon thereafter as counsel may be heard, in the courtroom of Hon. Harold Louderback, Judge of said court, in the United States Postoffice & Court House Building, San Francisco, Calif., the above debtor will move the court to amend its decree issued in this matter, Sept. 12, 1941, disapproving the plan of reorganization heretofore filed herein, and dismissing the proceedings, so as to grant the debtor leave, within such time as the

court shall prescribe, to amend said plan or to present an alternative plan calculated to meet and remove objections. [180]

Said motion will be based on the affidavit and the points and authorities hereto attached, on all the files and records in the case, and on such evidence as may be adduced at the hearing.

**GAYLORD & GAYLORD,**  
Attorneys for debtor.

October 9, 1941.

Received a copy of the above and within notice of motion, affidavit and points and authorities, October 9, 1941.

**BROBECK, PHLEGER &**  
**HARRISON,**  
Attorneys for American Trust  
Company.

[Endorsed]: Filed Oct. 9, 1941. [181]

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[Title of District Court and Cause.]

**AFFIDAVIT**

State of California,  
City and County of San Francisco—ss.

Charles M. Bufford being sworn says: that he is president of debtor corporation;

That it was his and the debtor's understanding and belief, until they had notice of the court's decree herein, dated Sept. 12, 1941, that in the event

objections of American Trust Company to the plan of reorganization heretofore proposed by it in this proceeding were sustained, time would be afforded the debtor to amend said plan or present an alternative plan calculated to meet and remove objections, and that such leave would be granted as part of the court's order; that for that reason and no other the debtor did not make request, specifically, for such leave in the event of such disapproval; [182]

That this court, on April 14, 1941, upon the filing of American Trust Company's answer to the petition on file herein, referred all issues thereby tendered to Burton J. Wyman as Special Master, and on June 18, 1941, upon the filing of American Trust Company's objections to the debtor's proposed plan of reorganization, issued its order providing "that the issues raised herein by the objections \* \* \* be and the same are hereby referred to Honorable Burton J. Wyman, as special master to take testimony, and report to this court \* \* \* as to such issues and as to whether the said plan should be approved or the proceedings dismissed or the debtor adjudicated a bankrupt;"

That it was the understanding and belief of the debtor and his counsel that, upon the issuance of said Special Master's certificate and report recommending that the debtor's proposed plan of reorganization be disapproved, the debtor's proper procedure was to file exceptions to the certificate and report with this court, and await the ruling of this court thereon before taking any further

steps, either by way of amendment of said plan or of proposal of a different plan; that the scope of the references to said Special Master went no further than to provide for the hearings eventuating in the certificate and report; that his jurisdiction and authority were wholly exhausted when the same was issued; that he was not authorized to entertain amendments or different plans; and that it was not appropriate or proper that the same or either of them be presented to him in the absence of a further reference to him by this court;

That affiant verily believes that a plan of re-organization can be presented that will further the purposes and meet the requirements of the law and receive the approval of this court, and in that regard affirms that, if granted leave by this court, the debtor will propose a plan containing the following provisions: Extension of maturity of the mortgage trust deeds held by the debtor's two creditors until one year after the President shall [183] proclaim the end of the present National Emergency, subject to an earlier sale of the property subject to either trust deed, or any part thereof, by mutual consent of the parties thereto; in the meantime one-half of the gross income of the property subject to each trust deed to go to the holders thereof, such holders to pay the taxes, the other half to go to the debtor, the debtor to be responsible for maintenance and upkeep; interest to be reduced and penalties set aside; the court to reserve jurisdiction

of the case for the purpose of authorizing improvements on any of the property in the event the same become desirable and issuing certificates of indebtedness in payment, if hereafter found proper in the sound discretion of the court;

That unless the debtor is granted leave to amend the plan of reorganization heretofore proposed, or to propose a different plan, it will suffer great and irreparable injury, and the result will be shockingly unjust to the debtor's stockholders;

That the decree dated Sept. 12, 1941, was taken against the debtor through its inadvertence and excusable neglect and mistake.

CHARLES M. BUFFORD

Subscribed and sworn to before me this 9th day of October 1941.

(Seal) R. A. ANDERSON,  
Notary Public in and for the City and County of  
San Francisco, State of California.

My commission expires May 19, 1943.

[Endorsed]: Filed Oct. 9, 1941. [184]

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District Court of the United States  
Northern District of California  
Southern Division

At a Stated Term of the Southern Division of the  
United States District Court for the Northern Dis-  
trict of California, held at the Court Room thereof,

in the City and County of San Francisco, on Wednesday the 22nd day of October, in the year of our Lord one thousand nine hundred and forty-one.

Present: The Honorable Harold Louderback, District Judge.

No. 33553-L.

In the Matter of  
SAN FRANCISCO LAUNDRY ASSOCIATION,  
Debtor.

(ORDER DENYING MOTION TO AMEND  
ORDER ENTERED SEPTEMBER 12, 1941  
etc.)

The motion to amend order entered September 12, 1941 having been submitted and fully considered, the Court finds that upon the facts as presented to the Court and upon the Report of the Special Master (heretofore approved), no plan could be proposed which would be acceptable under the provisions of the Bankruptcy Act, and, therefore, It Is Ordered that the said motion to amend order of September 12, 1941 be and the same is hereby denied. [185]

[Title of District Court and Cause.]

**NOTICE OF APPEAL FROM DECREE AND  
ORDER**

To the above-named court, and to all parties in interest in the above-entitled matter:

Notice is hereby given that San Francisco Laundry Association, a corporation, debtor in possession appointed as such in said matter, hereby appeals to the United States Circuit Court of Appeals for the Ninth Circuit, from the following:

From the decree issued in said matter September 12, 1941, affirming the Special Master's certificate therein; overruling the exceptions thereto; disapproving the plan of corporate reorganization presented in said matter; dismissing said proceeding; and allowing fees as in said decree set forth; and from the whole thereof; [186]

From the order issued in said matter October 22, 1941, denying the motion of said debtor, noticed October 9, 1941, and heard October 13, 1941, praying the court to amend its said decree, so as to grant the debtor leave, within such time as the court should prescribe, to amend said plan of reorganization or to present an alternative plan calculated to meet and remove objections.

The amount involved in said decree and in said order, each respectively, is in excess of \$500.00.

**GAYLORD & GAYLORD**

Attorneys for said debtor

October 22, 1941

[Endorsed]: Filed Oct. 22, 1941. [187]

[Title of District Court and Cause.]

AFFIDAVIT AS TO AMOUNT INVOLVED IN  
APPEAL

State of California,

City and County of San Francisco.—ss.

Charles M. Bufford being sworn says that he is president of debtor corporation;

That by order of this court duly made said debtor was continued in possession of its estate involved in this above-entitled matter; that the least value placed on said estate by any witness before the Special Master appointed by the court in this matter exceeded \$30,000.00; that said Special Master did not find the value of said estate, but found it insolvent; [188]

That in the event the decree of this court issued in this matter September 12, 1941, affirming said Special Master's certificate, disapproving the plan of corporate reorganization heretofore proposed in this matter, and dismissing this matter, becomes final, the debtor will realize nothing from said estate; that in the event said plan of reorganization, or a different, fair, equitable and feasible plan, is approved and confirmed, said debtor may reasonably be expected to realize from said estate in excess of \$10,000.00; that the amount involved in the appeal of said debtor from said decree, and the value of the property affected by said decree, are each in excess of \$500.00.

CHARLES M. BUFFORD

Subscribed and sworn to before me this 22nd day of October 1941.

M. E. VAN BUREN

Deputy Clerk, District Court  
The U. S. Nor. Dist. of California

[Endorsed]: Filed Oct. 22, 1941. [189]

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[Title of District Court and Cause.]

**CONCISE STATEMENT OF POINTS ON  
WHICH APPELLANT INTENDS TO RELY**

The following is a concise statement of the points on which the appellant intends to rely on the appeal.

**1**

The Special Master's failure to find on the issues raised by the answer of American Trust Company to the petition may be explained and justified only on the ground that said answer was not filed within the time prescribed by the Act, and for that reason was a nullity: in that view of the case, the allegations of the petition must be deemed admitted for all the purposes of the case: in the event said answer is deemed sufficient to tender issues, the Special Master's Report and Certificate is fatally defective in that it wholly failed to find thereon.

[194]

**2**

The plan of corporate reorganization proposed by appellant May 31, 1941, is clearly fair and equitable

within the meaning of the Act, and of all judicial standards that have been worked out; and to refuse to approve it is an abuse of discretion.

## 3

Said plan is clearly feasible within the meaning of the Act, and of all judicial standards that have been worked out; and to refuse to approve it is an abuse of discretion.

## 4

The finding of the Special Master, approved by the district court, that each and all of the objections of American Trust Company to said plan, are true, is prejudicially erroneous, and appellant has excepted to it, in each of the following respects:

a. Insofar as the same relates to that portion of Objection 1, alleging that the debtor is insolvent, said finding is contrary to the weight of evidence, and to said company's admissions resultant from its failure to answer within the time prescribed by law.

b. Insofar as the same relates to that portion of Objection 1, alleging that said plan contemplates the realization of something by the debtor at American Trust Company's expense, said finding is not supported by evidence, and is contrary to the express provisions of said plan.

c. Insofar as the same relates to that portion of Objection 2, alleging that the obligations

due from the debtor to American Trust Company far exceed the value of the property hypotheccated to said company, said finding is contrary to the weight of evidence, and to said company's admissions resultant from its failure to answer within the time prescribed by law.

d. Insofar as the same relates to Objection 3, alleging that said plan discriminates unjustly in favor of the holder of the mortgage trust deed on the debtor's smaller parcel of land, said finding is not supported by evidence, and is contrary to the express provisions of said plan.

e. Insofar as the same relates to Objection 4, alleging that said plan provides for the scaling down of the indebtedness owing American Trust Company, said finding is not supported by evidence, and is contrary to the express provisions of said plan.

f. Insofar as the same relates to Objection 5, alleging that said plan contemplates a speculative venture for which there is no reasonable prospect of success, said finding is not supported by evidence, is directly contrary to the only evidence in the record touching said matter, and is contrary to the express provisions of said plan. [195]

Certain of the objections to said plan, raised by American Trust Company, and deemed important, if not controlling, by the Special Master and the district court, are without force or validity:

- a. The issue raised by Objection 1, whether or not the debtor is insolvent in the absolute sense, is wholly immaterial for the purposes of this case.
- b. The point made in Objection 2, that said plan contemplates the creation of a prior encumbrance upon the property hypothecated to said company, is wholly immaterial, for the reason that the Act expressly authorizes certificates of indebtedness with absolute priority for labor and materials enhancing the value of the security.

- c. The point made in Objection 3, that said plan discriminates unjustly in favor of the holder of the mortgage trust deed on the debtor's smaller parcel of land, if valid, goes only to a minor detail of the plan; and in the event it were sustained, could and should be remedied by amendment to said plan, and is not sufficient ground for rejection of said plan.

## 6

The appellant excepts to the ruling of the Special Master as prejudicial, that the only question of land value before him was the then present value of the parcel of land subject to American Trust Company's mortgage trust deed in its then present condition, and his refusal to consider its value were said plan carried out.

## 7

The refusal of the district court to grant appellant leave to amend its said plan, or to present a

different plan after disapproval of said first plan, was prejudicial error, no opportunity for amendment of said first plan, nor for substitution of a different plan, having been granted at any stage of the case.

CHAS. M. BUFFORD  
Attorney for debtor

October 31, 1941

Received copy of the foregoing concise statement of points on which appellant intends to rely this 31st day of October 1941.

BROBECK, PHLEGER &  
HARRISON  
Attorneys for American Trust  
Company

[Endorsed]: Filed Oct. 31, 1941. [196]

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[Title of District Court and Cause.]

CONDENSED STATEMENT IN NARRATIVE  
FORM OF THE TESTIMONY

On April 28, 1941, and May 8, 1941, Burton J. Wyman, Special Master appointed by the district court in this matter, held hearings on the issues raised by the answer, and on June 19, 1941, on the issues raised by the objections to the plan of corporate reorganization.

At the opening of the hearing on June 19, 1941, counsel for American Trust Company moved to introduce in evidence the testimony adduced on the hearings on the issues raised by the answer. Debt-

or's counsel stated he had no objection; but objected to the admission of the testimony of American Trust Company's expert witnesses as to the present value of the real estate in its existing condition, on the ground that the proper basis of [197] valuation of the property for the purposes of the plan would be the value as improved and subdivided with duplex structures upon it, and that the existing value of the land is not material. Counsel for American Trust Company urged that the latter is the only evidence that is material; that that company cannot be compelled to enter into a speculative venture which is entirely dependent on whether or not the debtor can sell the houses for the price it indicates; that, so far as the debtor is concerned, the present value of its assets is far less than the amount of its obligations; that nobody except American Trust Company has any right to vote on said plan; that present value is the only question involved.

The Master ruled in accordance with the contention of American Trust Company, stating that the debtor had to take fixed assets as the present value, otherwise it is speculating on what maybe will happen in the future.

The debtor's counsel stipulated to the admission of the testimony adduced on the hearings on the issues raised by the answer, subject to his foregoing objection.

Thereupon discussion arose as to whether or not value should be given to a claim then being litigated.

gated by the debtor in a pending suit against A. L. May and others. The Master ruled that in the absence of any showing that it is a valuable asset, he would have to say it is a speculative matter.

It was stipulated by counsel that the debtor's articles of incorporation specify as the purpose for which the debtor is formed only to carry on and conduct, in all of its branches, the business of a laundry in the City and County of San Francisco, and such other business as may be connected therewith or necessary for the prosecution thereof. [198]

The following is a condensed statement in narrative form of the testimony.

MR. GEORGE H. THOMAS, JR.,

called as a witness by American Trust Company, testified:

I have engaged in real estate with Baldwin & Howell for over 20 years, and have had considerable experience in appraising real property in and around San Francisco. I assisted in the appraisal of all rights of way and terminals of the San Francisco-Oakland Bay Bridge, and was employed by the United States Government and the City and County of San Francisco, and have been a member of the County Board of Equalization for the last 10 years. I have appraised property for the San Francisco Bank, the Crocker Bank, the Crocker Estate,—in all in excess of \$100,000,000 worth of property.

(Testimony of George H. Thomas, Jr.)

I am familiar with the property of the debtor corporation subject to American Trust Company's mortgage trust deed, and have appraised it. My appraisal is \$30,000.

In arriving at the value, I have taken into consideration properties in the vicinity that have been sold, and I took into consideration the highest and best use the property might be put to, the location, and all the elements pertaining to fair market value of the property.

The highest and best use to which the land can be put is commercial—a skating rink, an ice rink, or some kind of an amusement center—a special use where the people who used it could not afford to put much money into the land and still want a fairly good location. I took into consideration the potentialities so far as residential is concerned. Due to the fact the Federal Housing would not lend money on property in the vicinity due to its blighted condition and type of residents, I think the highest and best use would be for some specialized line. A subdivision of the property would decrease its value, because of the cost [199] entailed in subdividing, the amount of available property, and the fact that it would cost as much to build bungalows or flats there as it would in Pacific Heights, and the revenue would be very limited in proportion to what you could get in a better district.

There was a sale on the northeast corner of Steiner and Eddy, across the street from the block

(Testimony of George H. Thomas, Jr.)  
containing the debtor's property, in 1937. That property is 82' 6" by 82' 6", improved with flats, and sold for \$6,500.00.

In valuing the debtor's property, I have not placed any value on the structures on it. They are very, very old, and more of a liability.

I appraised the property on the north west corner of Turk and Fillmore, immediately adjacent to the property in question. This corner was sold about 90 days ago, I think, for \$65,000.00, without referring to my records. It is 130' 6" on Turk by 85' on Fillmore. It is not at all comparable to the property in question.

The property at Turk and Steiner, also immediately adjacent to the property in question, was sold about Sept. 20, 1939, for \$6,300.00. I do not know of any more recent sale since it has been developed as a gas station.

The property at the northwest corner of Turk and Fillmore is definitely not comparable. Fillmore Street is a business street with some retail business on it. This corner was sold in August 1940 for \$62,500, and is not comparable from an income point of view. It is entirely different.

The debtor's land in question is assessed for \$30,240.00, and the improvements for \$1,950.00. My opinion is that a liberal value is \$30,000.00, although I have been associated with the Assessor for 10 years as advisory counsel. It is not a question of value so much as apportionment of assessment of

(Testimony of George H. Thomas, Jr.)

property in the district. It is assessed proportionately. Assessed value does not denote market value.

[200]

As between the land and improvements on the northwest corner of Turk and Fillmore, I think 75 per cent of the value would apply to the land. That is just an offhand opinion.

The debtor's improvements have not been kept up at all. For a number of years Baldwin & Howell have tried in every possible way to create a buyer for the debtor's property and have been unsuccessful.

The northwest corner of Fillmore and Turk is improved with stores and a hotel upstairs. It is tenanted. The improvements may be 35 or 40 years old, but have been well kept and modernized. The stores are really modern. I would say the income from the property is \$850 to \$1,000 per month; that would be just a guess.

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MR. B. A. BANKER,

called as a witness by American Trust Company, testified:

I have been a real estate broker for 35 years in San Francisco, have had considerable experience appraising properties, am familiar with the debtor's property in question, and made a joint appraisal of it with Mr. Thomas. Our appraisal was \$30,000.00 as the market value.

I place a price on the property of 52 or 53 cents a square foot. We took into consideration what the property might be sold for if it was subdivided and utilities put in. We subdivided the Odd Fellows Cemetery and the Masonic Cemetery. I think they are located better than this. We sold the Odd Fellows off at about 65 cents a square foot, and the Masonic at about 90 cents, after the utilities were in. I would imagine the cost of placing utilities in this property, if it were subdivided, would cost between \$12,000 and \$15,000. The area is about 56,000 or 57,000 square feet. In my opinion, you could not subdivide the property and get \$30,000.00 for it.

[201]

I don't think the property would be worth more a square foot in subdivision than at the present time, and you would go to the cost of putting in utilities and connections before selling it. The figure of \$15,000 for the utilities is largely an offhand opinion: I could figure the cost. Last fall my company sold a lot on Sutter near Divisadero, 106' by 137' 6"—about 14,000 square feet—for \$5,000.00, which was 36 or 37 cents a square foot.

In arriving at the valuation of the debtor's property in question, I considered the value of the property at Turk and Steiner; but gave no consideration whatever to Turk and Fillmore, because it is a piece of commercially leased business property that paid over 10 per cent on the price it sold for.

I have heard the area in which the property in question is situate called the blighted area. But I

(Testimony of Mr. B. A. Banker.)

did not say that it was a blighted area. I think a blighted area is one in which it is not sound economically to build a new building or make new improvements, an account of the surrounding improvements. [202]

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MR. EDWARD AHNEFELD,

called as a witness by American Trust Company, testified:

My occupation is Assistant Cashier American Trust Company; and I am familiar with the indebtedness of the debtor to that bank.

As of April 28, 1941, the balance of principal of the bank loan is \$25,810.52; accrued interest \$8,391.26; interest on delinquent interest \$918.75; advances for taxes \$3,944.79; cost of a partial reconveyance \$5.00; default notices \$12.00; advertising costs \$23.50; interest on advances \$258.46; total \$39,364.28. This does not include the 2nd instalment of 1940-1941 taxes, amounting to \$819.48, which have not been paid.

The last payment of any nature was \$500, January 28, 1940. The trust deed covers all the debtor's real property, except the 25-foot lot on Steiner Street.

The bank was paid \$2,339.60 on December 29, 1938; \$1,834.95 in March 1939; \$5,900.00 about October 1939, in consideration of a partial release; and \$500 on January 28, 1940. The payments of

(Testimony of Mr. Edward Ahnefeld.)

March 1939 and January 1940 were applied to tax advances; that of October 1939 to principal. The debtor has not paid taxes on this property for more than 3 years, aside from repayments on account of tax advances we made. [203]

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MR. CHARLES M. BUFFORD,

called as a witness, first by American Trust Company, and afterwards by the debtor corporation, testified:

In 1940, total rentals received by the debtor were \$1,655, and percentage on the parking concession was \$487.82. A small portion of that amount—probably not over \$125—came in on the Steiner Street property. So the net on the property subject to American Trust Company's mortgage trust deed was between \$2,000 and \$2,100.

Expenses of the property were \$138.64; payment to American Trust Company \$500; operating expenses of the debtor about \$160 per month, consisting of \$150 per month salary to myself, and \$10 per month miscellaneous expense.

I am the principal stockholder of the debtor, holding 696 shares out of 1,000 shares of capital stock. The debtor operated a laundry until November 12, 1938.

Two years prior, the company had made a conveyance to a trustee for the mutual benefit of its

(Testimony of Mr. Charles M. Bufford.)

creditors and the company, and on November 12, 1938, liquidated it. As a result, everything was paid off except the real estate mortgages.

Since 1938 we have had real estate, and remaining assets that had to be collected, consisting of machinery and accounts receivable. At the present time, there are 2 conditional sales contracts of machinery only, outstanding, others having been heretofore liquidated. Total receipts for 1940 were about \$3,900.

I am an attorney, and I think I devoted about half of my time during 1940 to the debtor's business. [204]

The accounts in connection with the assignment to the trustee have not as yet been closed: there is a suit pending against him: it took a great deal of time to get up the material for the suit. A contract with Robert E. Hatch, an attorney, to prosecute that suit was made in October or November 1940, although the suit was not filed until after the petition for corporate reorganization was filed.

I have been an officer of the debtor corporation since 1901.

The monthly rentals collected by the company for 3 months from January 1, 1941, to March 31, 1941, averaged \$226 per month.

The expenses in connection with the operation of the debtor's business are my salary of \$150 per month, miscellaneous office expenses, and fire insurance, but no other employees.

(Testimony of Mr. Charles M. Bufford.)

In the last year before the filing of the debtor's petition, its business consisted of the sale of laundry machinery and equipment, collection of outstanding accounts, the renting of real property, the fitting out of a parking lot on the property, and an effort to put the property to a more beneficial use or to sell it.

At the time of the filing of the debtor's petition, the sale of the property subject to the mortgage trust deed in favor of American Trust Company had been noticed by it.

In my opinion, it is possible for the debtor corporation to be reorganized in such a manner that it may be continued as a regular business.

I have knowledge of sales in the block containing the property in question. The lot at the corner of Turk and Steiner, with a frontage on Turk Street of 65' and on Steiner of 87' 6", was sold to L. R. Levin in the fall of 1939 for \$6,300.00. Mr. Levin built a gas station, and resold to E. G. Kimball the fore part of 1940. The deed has \$23,000 worth of Internal Revenue Stamps on it. He was asking \$18,000.00, and the rise in price from \$18,000.00 [205] to \$23,000, as shown by the stamps, is due to a trade-in he made. The oil station cost a little less than \$8,000 to build. The lot at the corner of Turk and Fillmore, with a frontage of 130' 9" on Turk and 85' on Fillmore, was sold to Gussie Gross on August 2, 1940. The testimony already given here is that the price was \$62,500.00. I have 2 offers on

(Testimony of Mr. Charles M. Bufford.)

the debtor's parcel on Steiner Street—25-foot front and 87' 6" in depth—, title to which is now in the debtor corporation, one from Wm. F. Rieger of \$2,500.00, one from the holder of the mortgage trust deed thereon to take it in satisfaction of her trust deed. There have not been any other sales in the block within the last 5 years that I know of.

I have been buying and selling land in the block, as president of the debtor, for 20 years; and prior to that, when we made some other real estate transactions in the block, was a director of the company. I think the property covered by American Trust Company's trust deed is worth a dollar a square foot. I base this on the value of the surrounding property. This offer I have for the Steiner Street property is at the rate of \$1.10 per square foot. The Fillmore Street frontage, including a very old building, was sold at almost \$6 per square foot. The site of the oil station was sold by me in the fall of 1939 at \$1.10 a square foot; and it has since sold, from Levin to Kimball, for considerably more than that. The diagonal property in the block from Steiner to Pierce, Turk to Golden Gate, changed hands about 3 years ago at a little over a dollar a square foot. Real estate in that particular neighborhood shades off in value from Fillmore Street. When the Stafford appraisal was put on property in that block 15 years ago, his committee put a value of about 50 per cent more on land in the block

(Testimony of Mr. Charles M. Bufford.) adjoining Fillmore than he did in the block between Steiner and Pierce. [206]

The debtor's proposed plan of reorganization is as follows. The average width of the debtor's land, running through a distance of 275 feet from Turk to Eddy, is about 200 feet. The proposal is to put a street 50 feet wide through from Turk to Eddy, and put so-called duplexes on 25-foot lots on either side, thus dividing the property into lots 70 feet in depth, with an additional lot on Turk Street, where the property has additional width. The lots would comply with the requirements of The Federal Housing Authority for housing loans. The buildings would cost between \$6,500 and \$7,000 per unit, and would sell at a figure, considering the rentals available, that would net \$2,000 per lot to the debtor. There being 23 lots, 4 of them corner lots, the gross would be in excess of \$46,000. We have an architect, George E. Ralph, who has drawn preliminary plans for the buildings, a contractor who is willing to go ahead, a street contractor who has figured the street work, and a realty broker who believes he will be able to market the houses as completed. We believe that through this plan, it will be possible to retire American Trust Company's loan, and also realize an equity for the debtor corporation. The plan has been figured thoroughly. I believe all figures involved are legitimate, and the costs are appropriate to that neigh-

(Testimony of Mr. Charles M. Bufford.)

borhood. The street, once laid out, will form a little community of its own.

I have estimates of the expense of constructing such a street as I have outlined, and of doing the utility work. They run between \$3,000 and \$4,000. We propose a street with a paved section 26 feet wide, which is the right width for a small street like that according to the Street Department of the Board of Public Works. The sewer work is only a small branch sewer to connect with the main sewer on Turk Street, and there is no grading to be done.

[207]

The assignment by the debtor to A. L. May was made under date of May 29, 1936. The recital therein that the company was unable to pay its debts was true in the sense that it had not got the ready cash to pay its debts, not in the sense that it did not have assets and property sufficient to pay.

Ever since the trustee under that assignment shut down the business, the only business in which the debtor has been engaged has been the liquidation of its assets and the management of its real estate.

Whether, after the plan of reorganization is carried out and the lots sold, the company will go out of business, is hard to say. That is a matter for the future. It is conceivable that the company might liquidate its debts and still continue to hold a building.

The company does not intend longer to engage in the business for which it was originally incorpo-

(Testimony of Mr. Charles M. Bufford.)

rated, unless one so interprets the provision of its articles of incorporation, "and other business connected therewith", the company having been engaged in real estate at the time the articles were filed back in 1875, and always having been at all times ever since.

The Federal Housing Authority said they would extend loans; they so told Mr. Ralph, the architect.

The property diagonally across the corner of Fillmore and Steiner was sold to Piombo Bros. at \$1.10 a square foot. It is a corner lot, and inside property, just like the debtor's property. The sale to Piombo Bros. included the corner, and a large section of land further up the block.

There are no corner lots on the property now subject to American Trust Company's mortgage. An advantage of the subdivision I propose is that it will create 4 corner lots. [208]

I based my statement that the street work can be put in for not to exceed \$4,000 on my investigation of the cost of the street work. I investigated from the Street Department of the Engineer's Office in the City Hall what was necessary, and was informed that a 26-foot pavement was satisfactory with the city authorities. Then I ascertained the cost of the various elements that went into a street of that width.

I have dealt in real estate and studied real estate values in the neighborhood where the property in question is situate quite thoroughly. I have both

(Testimony of Mr. Charles M. Bufford.)

bought and sold real estate in the block in question. I sold a parcel on Fillmore Street in 1918, with a frontage of 22 feet on Fillmore, 85 feet north of Turk, at a price of about \$600 per front foot. The debtor was owner. I sold to California Baking Company. I sold the corner of Turk and Fillmore, with an 85-foot frontage on Fillmore and 130 feet on Turk in 1923. It belonged to the debtor. Then I bought property in that block I bought the Steiner Street lot subject to Mrs. Brownfield's trust deed, at public auction. I have personal knowledge of a sale in the block above to Piombo Bros., the draying company: I obtained information from the records, the revenue stamps, the deeds, and other sources.

A shallow lot is worth more per foot in a city than a deep lot, owing to the fact that it has more frontage. The lots as outlined in the plan, will have a value of about \$2,000 per lot. Improved as outlined in the plan, they will sell for about \$10,000 a lot. [209]

The land in the district is improved with other residence property. There is, across the street from the proposed development, a row of flats. Next door to the west on Eddy Street are 2 flats. To the east, from Fillmore to Webster, Eddy to Turk, there are a number of apartment houses. There are other residences both on Eddy and Turk,—to the west, one side of the block is occupied by Foster & Kleiser, the other side partially by residences. Across the street, a modernization program of the

(Testimony of Mr. Charles M. Bufford.)  
flats I spoke of is going on. In the last 6 months the flats immediately to the west have been modernized.

The demand for residence property is very good: the vacancies in the neighborhood, as I checked them, are less than 10 per cent.

Received a copy of the foregoing condensed statement in narrative form of the testimony this 31st day of October 1941.

BROBECK, PHLEGER &  
HARRISON

Attorneys for American Trust  
Company

[Endorsed]: Filed Oct. 31, 1941. [210]

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District Court of the United States  
Northern District of California

**CERTIFICATE OF CLERK TO TRANSCRIPT  
OF RECORD ON APPEAL**

I, Walter B. Maling, Clerk of the District Court of the United States, for the Northern District of California, do hereby certify that the foregoing ..... pages, numbered from 1 to 213, inclusive, contain a full, true, and correct transcript of the records and proceedings in the matter of San Francisco Laundry Association No. 33553 L, as the same now remain on file and of record in my office.

I further certify that the cost of preparing and certifying the foregoing transcript of record on appeal is the sum of Twenty-three and 75/100 and that the said amount has been paid to me by the Attorney for the appellant herein.

In witness whereof, I have hereunto set my hand and affixed the seal of said District Court at San Francisco, California, this 29th day of November A. D. 1941.

(Seal)

WALTER B. MALING

Clerk

E. H. NORMAN

Deputy Clerk

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[Endorsed]: No. 9985. United States Circuit Court of Appeals for the Ninth Circuit. San Francisco Laundry Association, a corporation, Appellant, vs. American Trust Company, Appellee. Transcript of Record. Upon Appeal from the District Court of the United States for the Northern District of California, Southern Division.

Filed November 29, 1941.

PAUL P. O'BRIEN,

Clerk of the United States Circuit Court of Appeals  
for the Ninth Circuit.

In the United States Circuit Court of Appeals  
for the Ninth Circuit

Bankruptcy, Ch. X.

U. S. C. C. A. No. 9985

In the Matter of

San Francisco Laundry Association,  
a corporation,

Debtor.

San Francisco Laundry Association,

Appellant,

vs.

American Trust Company,

Appellee.

CONCISE STATEMENT OF POINTS, AND  
DESIGNATION OF THE PARTS OF THE  
RECORD, ON WHICH APPELLANT IN-  
TENDS TO RELY.

The following is a concise statement of the points on which the appellant intends to rely on this appeal:

1.

The Special Master's failure to find on the issues raised by the answer of American Trust Company to the petition may be justified and explained only on the ground that said answer was not filed within the time prescribed by Chapter X, and for that reason was a nullity: in that view of the case, the allegations of the petition must be deemed ad-

mitted for all the purposes of the case: in the event said answer is deemed to have been filed in time to possess validity, the Special Master's Report and Certificate is fatally defective in that it wholly fails to find on the issues tendered by the answer.

## 2.

It is clear that the plan of corporate reorganization proposed by appellant May 31, 1941, is fair and equitable within the meaning of Chapter X, and of the judicial standards that have been enunciated; and to refuse to approve it was an abuse of discretion.

## 3.

It is clear that said plan is feasible within the meaning of Chapter X, and of the judicial standards that have been enunciated; and to refuse to approve it was an abuse of discretion.

## 4.

The finding of the Special Master, approved by the district court, that each and all of the objections of American Trust Company to said plan, are true, is prejudicially erroneous, and appellant has excepted to it, in each of the following respects:

a. Insofar as the same relates to that portion of Objection 1, alleging that the debtor is insolvent, said finding is contrary to the weight of evidence, and to said company's admissions resultant from its failure to answer within the time prescribed by law.

b. Insofar as the same relates to that portion of Objection 1, alleging that said plan contemplates the realization of something by the debtor at American Trust Company's expense, said finding is not supported by evidence, and is contrary to the express provisions of said plan.

c. Insofar as the same relates to that portion of Objection 2, alleging that the obligations due from the debtor to American Trust Company far exceed the value of the property hypothecated to said company, said finding is contrary to the weight of evidence, and to said company's admissions resultant from its failure to answer within the time prescribed by law.

d. Insofar as the same relates to Objection 3, alleging that said plan discriminates unjustly in favor of the holder of the mortgage trust deed on the debtor's smaller parcel of land, said finding is not supported by evidence, and is contrary to the express provisions of said plan.

e. Insofar as the same relates to Objection 4, alleging that said plan provides for the scaling down of the indebtedness owing American Trust Company, said finding is not supported by evidence, and is contrary to the express provisions of said plan.

f. Insofar as the same relates to Objection 5, alleging that said plan contemplates a speculative venture for which there is no reasonable prospect of success, said finding is not supported by evidence, is directly contrary to the only evidence in

the record touching said matter, and is contrary to the express provisions of said plan.

5.

Certain of the objections to said plan, raised by American Trust Company, and deemed important, if not controlling, by the Special Master and the district court, are without force or validity:

a. The issue raised by Objection 1, whether or not the debtor is insolvent in the absolute sense, is wholly immaterial.

b. The point made in Objection 2, that said plan contemplates the creation of a prior encumbrance upon the property hypothecated to said company, is wholly immaterial, as the same is to be created for the value of labor and materials to be furnished to enhance the value of the property.

c. The point made in Objection 3, that said plan discriminates unjustly in favor of the holder of the mortgage trust deed on the debtor's smaller parcel of land, if valid, goes only to a minor detail of the plan; and in the event it were sustained, could and should be remedied by amendment to said plan, and is not sufficient ground for rejection of said plan.

6.

The appellant excepts to the ruling of the Special Master as prejudicial, that the only question of land value before him was the then present value of the parcel of land subject to American Trust Company's mortgage trust deed in its then present con-

dition, and his refusal to consider its value were said plan carried out.

### 7.

The refusal of the district court to grant appellant leave to amend its said plan, or to present a different plan after disapproval of said first plan, was prejudicial error, no opportunity for amendment of said first plan, nor for substitution of a different plan, having been granted at any stage of the case.

The following is a designation of the parts of the record on which the appellant intends to rely on the appeal:

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on appeal)

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The following is the designation:

1.

Beginning with page 106 and ending with line 3 of page 115 thereof.

2.

Beginning with the 3rd line from the end of page 115 and continuing to the end of page 125 thereof.

## 3.

Beginning with the words, "In the meantime", in line 11 of page 148 to the 4th line of paragraph I on page 149 thereof, and ending with the words, "this plan of reorganization", in said line.

## 4.

Beginning with paragraph II on page 150 and continuing to the 10th line from the end of page 160, ending with the words, "United States District Judge" in said line.

## 5.

Beginning with the word, "Although", in line 9 of page 174, and including the three paragraphs beginning with said word, and continuing as far as the words, "Special Master's Fees and Expenses", on said page.

## 6.

Pages 176 to 189 thereof, inclusive.

## 7.

Pages 194 to 202 thereof, inclusive.

## 8.

Pages 204 to 210 thereof, inclusive.

## 9.

Page 214 thereof.

Provided, nevertheless, that titles of court and cause, and any other formal portions, shall be omitted from documents commencing on pages 176,

179, 180, 182, 185, 186, 188, 194, 197 and 214 of said record.

CHARLES M. BUFFORD  
Attorney for appellant

December 1, 1941.

Received a copy of the foregoing Concise Statement of Points, and Designation of the parts of the record, on which Appellant intends to rely, this 1st day of December 1941.

BROBECK, PHLEGER &  
HARRISON  
Attorneys for American Trust  
Company

[Endorsed]: Filed Dec. 2, 1941. Paul P. O'Brien,  
Clerk.

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United States Circuit Court of Appeals  
for the Ninth Circuit.

No. 9985

SAN FRANCISCO LAUNDRY ASSOCIATION,  
a corporation, Appellant,  
vs.

AMERICAN TRUST COMPANY,  
a corporation, Appellee.

DESIGNATION OF MATERIAL UNDER  
RULE 19.

Comes now American Trust Company, the appellee in the above-entitled cause, and pursuant to sub-

division 6 of rule 19 of the rules of this Court, designates as material to the consideration of this cause the following additional portions of the record herein, and requests that the same be printed in full, to wit:

The whole of the "Certificate and Report of Special Master on issues raised by answer of American Trust Company to petition for corporate reorganization and objections of American Trust Company to proposed plan of reorganization," which said Certificate is set forth on pages 106 to 175 of the original certified record herein.

Dated: December 13, 1941.

HERMAN PHLEGER

MAURICE E. HARRISON

HOWARD J. LINN

A. M. DREYER

Counsel for Appellee.

[Endorsed]: Filed Dec. 15, 1941. Paul P. O'Brien,  
Clerk.